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# PROPOSED RENEWAL OF THE GENERALIZED SYSTEM OF PREFERENCES—1984

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## HEARING

BEFORE THE

SUBCOMMITTEE ON INTERNATIONAL TRADE

OF THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

JANUARY 27, 1984

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# CONTENTS

## ADMINISTRATION WITNESS

Page

Hon. Alfred E. Eckes, Chairman, U.S. International Trade Commission ..... 4, 6

## PUBLIC WITNESSES

American Association of Exporters and Importers, W. Henry Parsons ..... 47
American Farm Bureau Federation, W. Glenn Tussey ..... 64
Association of American Chambers of Commerce in Latin America ..... 132
Association of American Publishers, Townsend Hoopes ..... 165
Brooks, Frederic H., chairman of the board, MacGregor Sporting Goods ..... 19
Chemical Manufacturers Association, Myron T. Foveaux ..... 237
Cohen, Calman J., vice president, Emergency Committee for American Trade.. 125
Electronic Industries Association, Robert L. Mullen ..... 149
Emergency Committee for American Trade, Calman J. Cohen, vice president... 125
Enyart, James R., director, international government affairs, Monsanto Co ..... 217
Fleischaker, Marc, general counsel, Motor & Equipment Manufacturers Association ..... 218
Foveaux, Myron T., Chemical Manufacturers Association ..... 237
Gortikov, Stanley, president, Recording Industry Association of America ..... 185
Hammer, Thomas A., Heron, Burchette, Ruckert & Rothwell ..... 72
Hoopes, Townsend, president, Association of American Publishers ..... 165
International Counterfeiting Coalition, William N. Walker, counsel ..... 217
Industrial Sector Advisory Committee (consumer goods), F. H. Brooks ..... 19
Koplan, Stephen, legislative representative, AFL-CIO ..... 87
Leather Products Coalition, Dean K. Schleicher ..... 100
Liebenow, Larry, advisory board member, Association of American Chambers of Commerce in Latin America ..... 132
Monsanto Co., James R. Enyart ..... 217
Motor & Equipment Manufacturers Association, Marc Fleischaker, counsel ..... 218
Mullen, Robert L., director of international relations, the Singer Co ..... 149
Parsons, W. Henry, manager of corporate customs, General Electric Co ..... 46
Recording Industry Association of America, Stanley M. Gortikov, president ..... 185
Russell, Randy M., National Council of Farmer Cooperatives ..... 67
Samuels, Michael A., vice president, U.S. Chamber of Commerce ..... 112
Schleicher, Dean K., Leather Products Coalition ..... 100
Thomson, Douglas, president, Toy Manufacturers of America ..... 31
Toy Manufacturers of America, Douglas Thomson ..... 31
Tussey, W. Glenn, American Farm Bureau Federation ..... 64
U.S. Chamber of Commerce, Michael A. Samuels ..... 113
Walker, William N., counsel to International Counterfeiting Coalition ..... 217
Wang, Francis S. L., law firm of Lee & Li ..... 233
Warner, Hon. John W., U.S. Senator from Virginia ..... 84

## ADDITIONAL INFORMATION

Press release announcing hearing ..... 1
Prepared statement of:
    Senator Robert J. Dole, Kansas ..... 2
    Senator John Heinz, Pennsylvania ..... 2
    Senator David H. Pryor, Arkansas ..... 3
    Hon. Alfred E. Eckes, Chairman, U.S. International Trade Commission ..... 6
    Frederic H. Brooks for Industrial Sector Advisory Committee No. 4 ..... 21
    Douglas Thomson, president, the Toy Manufacturers of America, Inc ..... 32

Prepared statement of—Continued

Page
W. Henry Parsons for American Association of Exporters and Importers... 48
American Farm Bureau Federation ... 65
Randy M. Russell on behalf of National Council of Farmer Cooperatives ... 68
Thomas A. Hammer of Heron, Burchette, Ruckert & Rothwell ... 73
Senator John W. Warner, Virginia ... 85
Stephen Koplan, legislative representative, AFL-CIO ... 89
Dean K. Schleicher on behalf of the Leather Products Coalition ... 102
Chamber of Commerce of the United States by Michael A. Samuels ... 114
Calman J. Cohen, vice president, Emergency Committee for American Trade ... 126
Association of American Chambers of Commerce in Latin America by Larry Liebenow ... 133
Electronic Industries Association by Robert L. Mullen ... 150
Townsend Hoopes on behalf of the Association of American Publishers, Inc ... 167
Stanley Gortikov for Recording Industry Association of America ... 187
Marc L. Fleischaker, general counsel, Motor & Equipment Manufacturers Association ... 220
Francis S. L. Wang, Esq ... 235
The Chemical Manufacturers Association by Myron T. Foveaux ... 238

## COMMUNICATIONS

Letter from U.S. Department of State ... 251
Dia-Compe, Inc ... 255
Letter and statement, Continental Grain Co ... 266
Donald W. Peterson, associate general patent counsel, Monsanto Co ... 269
Tonka Corp ... 279
Bread for the World ... 290
Hon. Jerry Huckaby, U.S. Representative, Louisiana ... 300
American Fiber, Textile, Apparel Coalition ... 303
Government of Israel Trade Center ... 305
Amir Porat, president, I M Inc ... 313
Rohm & Haas Co ... 315
California State World Trade Commission ... 319
International Business Machines Corp., J. Jancin, Jr., patent counsel ... 326
Letter and statement, U.N. Conference on Trade and Development ... 328
The American Chamber of Commerce of Mexico ... 348
Synthetic Organic Chemical Manufacturers Association ... 355
Israel Products, Inc ... 360
Sherwin-Williams Co ... 360
Statement for various trade associations ... 366
Statement of Ned Sambur for Educational Design, Inc ... 387
National Agricultural Chemicals Association ... 390
American Iron & Steel Institute ... 414
Statement of the Board of Foreign Trade, Republic of China on Taiwan ... 419
Letter and statement, British Embassy, Hong Kong office ... 455
Bobby F. McKown, executive vice president, Florida Citrus Mutual ... 472
The Plumbing Manufacturers Institute ... 482
U.S. Council for an Open World Economy, Inc ... 493
Considerations from Andean Group Governments ... 496
Embassy of the Argentine Republic ... 504
Letter and statement, Economic Consulting Services, Inc ... 517
National Foreign Trade Council, Inc ... 527
American Pipe Fittings Association ... 530
Henry J. Voss, president, California Farm Bureau Federation ... 539
American-Israel Chamber of Commerce and Industry, Inc ... 542
Korean Traders Association by Mr. Duck-Woo Nam ... 550
Statement on behalf of the Korean Traders Association ... 553
Bicycle Manufacturers Association of America, Inc ... 570
Dan Halperin, economic minister, Embassy of Israel ... 587
Ehud Polonsky, assistant economic minister, Embassy of Israel ... 597
Norman Lavin, president, Brass & Bronze Ingot Institute ... 602
Letter, McGraw-Hill, Inc ... 604
Joe Grimes, chairman, APCAC ... 606

# PROPOSED RENEWAL OF THE GENERALIZED SYSTEM OF PREFERENCES

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FRIDAY, JANUARY 27, 1984

U.S. SENATE,
SUBCOMMITTEE ON INTERNATIONAL TRADE,
COMMITTEE ON FINANCE,
*Washington, D.C.*

The committee met, pursuant to notice, at 9:33 a.m., in room SD-215, Dirksen Senate Office Building, the Honorable John C. Danforth (chairman) presiding.

Present: Senators Danforth, Chafee, and Heinz.

[The press release announcing the hearing and the prepared statements of Senators Dole, Heinz, and Pryor follow:]

[Press Release No. 84-103]

### FINANCE SUBCOMMITTEE ON INTERNATIONAL TRADE TO HOLD SECOND HEARING ON THE ADMINISTRATION'S PLANS FOR RENEWING THE GENERALIZED SYSTEM OF PREFERENCES

Senator John C. Danforth (R., Mo.), Chairman of the Subcommittee on International Trade of the Committee on Finance, today announced that on Friday, January 27, 1984, the Subcommittee will hold a hearing on S. 1718, the Administration's proposal to renew the Generalized System of Preferences.

The hearing will commence at 9:30 a.m. in Room SD-215 of the Dirksen Senate Office Building.

The Generalized System of Preferences is a preferential tariff program for developing countries authorized by Title V of the Trade Act of 1974. It permits duty-free entry of articles from developing countries, subject to certain conditions and limitations. The authority for this program expires January 3, 1985. S. 1718 would authorize its renewal with certain changes. At a hearing held August 4, 1983, U.S. Trade Representative William E. Brock explained the Administration's proposal to renew the program, as embodied in S. 1718. Chairman Danforth stated that for the hearing next January 27th, the Subcommittee sought testimony on the operation of the GSP as presently authorized; the need for such a trade preference program; and the Administration's proposal for renewal.

*Legislative Reorganization Act.*—Senator Danforth states that the Legislative Reorganization Act of 1946, as amended, requires all witnesses appearing before the Committees of Congress "to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument."

Witnesses scheduled to testify should comply with the following rules:

1. All witnesses must submit written statements of their testimony.
2. Written statements must be typed on letter-size paper (not legal size) and at least 100 copies must be delivered not later than noon on Thursday, January 26, 1984.
3. All witnesses must include with their written statements a summary of the principal points included in the statement.
4. Oral presentations should be limited to a short discussion of principal points included in the one-page summary. Witnesses must not read their written statements. The entire prepared statement will be included in the record of the hearing.

5. Not more than two minutes will be allowed for the oral summary.

*Written statements.*—Witnesses who are not scheduled to make an oral presentation, and others who desire to present their views to the Subcommittee, are urged to prepare a written statement for submission and inclusion in the printed record of the hearing. These written statements should be typewritten, not more than 25 double-spaced pages in length, and mailed with five (5) copies to Roderick A. DeArment, Chief Counsel, Committee on Finance, Room SD-219, Dirksen Senate Office Building, Washington, D.C. 20510, not later than Friday, February 17, 1984. On the first page of your written statement, please indicate the date and subject of the hearing.

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## STATEMENT OF SENATOR DOLE ON RENEWAL OF THE GENERALIZED SYSTEM OF PREFERENCES

Mr. Chairman, thank you for scheduling this second hearing on Renewal of the Generalized System of Preferences as the first in what will be a busy schedule of hearings in the trade area this second session of the 98th Congress. It is vitally important that we renew this program before it expires next January.

As Ambassador Brock testified last August, the GSP is not simply a unilateral preference program for the developing countries. The beneficiary countries now take an increasing share of U.S. exports, and in order for them to pay for those products, the countries must export in turn. Ambassador Brock testified that the United States exported to GSP beneficiary countries nearly $100 billion in goods and services in 1982, including agricultural products. This volume dwarfs the $8.4 billion in GSP products that we imported from those countries. The duty-free access afforded to the beneficiary countries under GSP is thus but a small investment in the continued success of U.S. exports.

That $8.4 billion in GSP imports into the United States, of course, is less than 4 percent of total U.S. imports. As Chairman Eckes will testify this morning, last year the ITC concluded that the GSP had had very little effect on U.S. industries or the nature of U.S. trade. We should take pride in the operation of the conditions and limitations Congress built into the program a decade ago to protect workers and firms from any adverse effects of the GSP.

Mr. Chairman, I hope that members of the committee and others in the Congress read your compelling article in the Washington Post of January 24th. Your poignant description of starvation in Africa—and the moving picture of mother and child accompanying your words—persuasively supports your argument for congressional action on a package of agricultural and food aid for that suffering region.

But I wish to point out that economic incentive programs such as the GSP are also important to the efforts of these poor countries to provide for their peoples some measure of health and hope. Even relatively prosperous countries such as Hong Kong, which enjoy visible economic success in a few export sectors, must cope with massive problems of human dislocation, overpopulation, unemployment, and general uncertainty. The GSP is important, as both an economic incentive and a political symbol of a commitment by the United States to assist the sound development of the beneficiary countries. I hope that we can move expeditiously to seek congressional approval renewing this important program.

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## SENATOR JOHN HEINZ' OPENING STATEMENT

Mr. Chairman the GSP program is important to the United States for two major reasons. First, it is essential for the future growth of trade between the U.S. and the nations of the Third World, trade that is vital to our economic growth. Second, it is a useful device for encouraging the assumption of greater international responsibilities by the Newly Industrializing Countries and their more effective integration into the world trading system. For those reasons I support extension of the GSP program with appropriate modification to ensure that the benefits of the program are better reserved for those countries most in need of them.

Currently, a handful of countries dominate the program and receive most of its benefits. In 1982, Taiwan, Korea, Hong Kong, Brazil and Mexico accounted for 64 percent of all GSP imports. These countries are not the world's poorest. Indeed, in many sectors they are fully competitive without benefit of the GSP program.

Unfortunately, the Administration's bill sacrifices a golden opportunity to reduce trade barriers to American products. As a nation's economy matures, so should its responsibilities in the international marketplace. It only makes sense that the richest of the newly industrializing nations should open their markets to American products as a condition for remaining in the GSP program.

To achieve that objective, Mr. Chairman, I have introduced amendments to S. 1718 which will address three major problem areas in the current program.

First, my amendments clarify the criteria for country eligibility for the GSP program by establishing a "three-tiered" system. The first tier consists of countries which may not be designated beneficiary countries. Similar to the list in current law, these nations, with some exceptions, have a per capita GNP of $4,000 or higher.

The second category is made up of countries which are automatically designated beneficiary countries. These countries, again with some exceptions, are those which have a GNP per capita below $680. Even though these countries are statutorily designated, the President may revoke the beneficiary designation pursuant to the procedures in current law.

All other countries fall into the third and largest category—those which the President may designate as beneficiaries at his discretion upon their meeting several well defined conditions. First, a country cannot fall under any of the current section 502(b) restrictions. Second, the country must have signed the Subsidies Code or have accepted equivalent obligations in a bilateral agreement with the U.S., that is, be a "country under the agreement" pursuant to the Trade Agreements Act of 1979; or it must have entered into a bilateral agreement with the U.S. to eliminate non-tariff barriers to trade in goods and services and to investment. Any such agreement must be approved by Congress pursuant to the "fast track" procedures in section 151 of the Trade Act of 1974. Taken together these 3 tiers reorient the benefits of the program to the least developed countries and give the Administration added leverage in negotiating reduced trade barriers with the advanced LDCs.

It is important to note that my amendments do not automatically graduate any of the major beneficiaries. Instead, they will be permitted to retain their status through commitments on reducing subsidies and trade barriers. The poorest countries, on the other hand, would not be required to make such commitments to join the program.

My second amendment conforms the list of goods excluded from the GSP program to those exemptions included in last year's Caribbean Basin Initiative.

Finally, Mr. Chairman, my amendments delete sections of S. 1718 which allow the President to waive the competitive need limit.

Given the importance of the GSP program—both to U.S. and Third World interests—it is important that specific guidelines be provided by Congress for the program's administration. Congress must be certain that the countries most in need of GSP receive the bulk of the program's benefits. Newly Industrialized Countries must be encouraged to take on responsibilities commensurate with their stronger economies.

Congress has the duty to establish clear guidelines for future participation in the GSP program, both to reflect the maturation of foreign economies and to ensure that benefits flow to the countries most in need of them. In addition, the law should recognize the plight of import-sensitive domestic industries. My amendments would assure that these goals are met.

Since these amendments were only introduced this week, I do not expect detailed reactions from today's witnesses. I would, however, welcome any comments they might have now or later.

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## STATEMENT OF SENATOR DAVID H. PRYOR

Mr. PRYOR. Mr. Chairman, I appreciate your holding this hearing today to consider the re-authorization of the Generalized System of Preferences (GSP). I know the Finance Committee of the Senate must consider this legislation during the coming year, and I appreciate the opportunity to present this statement on a couple of the issues involved.

In our consideration of this re-authorization, I think it is important to remember several things. First, GSP is intended to benefit needy, developing countries. Secondly, it is a concessional program on behalf of the United States, and for several years we've recognized that under certain circumstances GSP benefits should not be available to other countries. Thirdly, GSP benefits should not be reovked or withdrawn unreasonably, but by the same token, we should allow the President to change a country's eligibility upon a showing of good cause.

My interest in our international trade posture, and the statutes and agreements involved, comes from the fact that the State of Arkansas is primarily an agricultural state. We produce much of the nation's rice, lead the nation in broiler production, and rank very high in soybean and cotton production. Agricultural trade is extremely important to my constituents.

For quite some time, Mr. Chairman, I have been interested in the discussion of the subsidization of rice exports by Taiwan. Taiwan heavily subsidizes its rice exports. This has caused our rice farmers to lose many of their traditional markets (for example, Indonesia) and has also lowered the world market price for rice. This has created severe economic consequences for many rice producers.

Last year, the Rice Millers' Association filed a complaint with the United States Trade Representative against Taiwan for subsidizing rice exports. This matter is currently under investigation, and there have also been three rounds of talks between representatives of our government and the Government of Taiwan. Some progress has been made, and I hope the entire issue can be resolved when another meeting is held in a few weeks.

However, Mr. Chairman, I think there is a need for amendments to certain parts of our trade laws so that the President is given other options when another nation has violated its international responsibilities in the commercial arena. I've introduced a bill, S. 2191, which would amend both the GSP and Section 301 of the Trade Act of 1974. This bill would provide that if the President determines that another country has violated its international trade commitments, he can terminate or suspend its eligibility to receive the benefits of GSP. In short, it would deny GSP benefits when the President finds that one of our trading partners has broken well-established trade rules.

Mr. Chairman, the change I am proposing is a modest one, and I certainly hope the committee will consider it as we proceed with the GSP re-authorization. I appreciate the opportunity to present this statement, and I will be more than happy to work with you and other members of the committee on these important trade issues.

Senator DANFORTH. Mr. Eckes.

## STATEMENT OF HON. ALFRED E. ECKES, CHAIRMAN, U.S. INTERNATIONAL TRADE COMMISSION

Mr. ECKES. Good morning, Senator. I am delighted to have this opportunity to discuss the International Trade Commission's recent studies of the GSP and to provide additional data of possible interest to this committee.

With me today are several staff specialists, Gene Rosengarden on my left, who is one of our experts on tariff classification matters; Vern Simpson on my far right with the Office of Industries, who has coordinated one of the studies; and Jerry Tempalski on my immediate right, an economist who worked with another of the studies.

They, along with myself, will be available to respond to your specific questions.

I believe you have my prepared statement, and with your permission, I will provide only a brief summary of the highlights. My written testimony also updates our general conclusions, although this material does not alter significantly our overall published conclusions.

Here are some of our major findings.

First, U.S. GSP imports grossed from $5.2 billion in 1978 to $8.5 billion in 1982, increasing at a rate of approximately 13 percent. The machinery and equipment sector and the miscellaneous manufactures sector accounted for roughly one-half of all GSP imports during 1978 to 1982.

Second, GSP imports accounted for 4.9 percent of total nonpetroleum imports in 1982, rising modestly from 4.1 percent in 1978. On a sector basis, the miscellaneous manufactures sector had the highest share of GSP imports relative to total imports, averaging 13.8 percent over the period.

This sector, incidentally, includes such items as furniture, toys, jewelry, and certain sporting goods. Other sectors averaged a 3- to 5-percent ratio of GSP imports to total imports over the 5-year period.

GSP imports have not resulted in significant increases in the overall import share of the U.S. market. This conclusion rests on a sector-by-sector examination of the rate of growth of GSP imports relative to total imports, the extent to which overall market penetration by the imports has increased, and the magnitude of GSP imports relative to apparent U.S. consumption.

Overall GSP imports accounted for approximately 0.5 percent or less of apparent U.S. consumption during the 1978 to 1982 period.

For miscellaneous manufactures, the sector with the largest GSP penetration, the average import-to-consumption ratio over the entire period was 2.1 percent.

With respect to agriculture, I should note that the ratio of GSP imports to total imports declined from a peak in 1981 of 6.7 percent to 4.7 percent during 1982. Over the entire 1978 to 1982 period, GSP imports in the agriculture sector were equivalent each year to 0.5 percent of domestic consumption or less.

Such imports probably would have been significantly higher had it not been for the competitive need criteria of the GSP which resulted in certain major supplying countries being ineligible for GSP treatment.

I would like to call the attention of the members of the committee to two tables which are appended to our testimony. One provides GSP statistics on a sector-by-sector basis and includes 1982 data. The second table provides partial data for 1983 on GSP imports from some selected countries.

Finally, let me say that another ITC staff study examined what happened to import trends when country products were excluded from GSP eligibility.

The evidence suggests that advanced developing countries and developed countries, not less developed countries, benefit when products are excluded.

Mr. Chairman, that concludes my summary. I would be delighted, as would our staff members, to respond to any of your questions or to provide additional post-hearing submissions.

[The prepared statement Hon. Alfred E. Eckes follows:]

# STATEMENT OF ALFRED ECKES, CHAIRMAN
# UNITED STATES INTERNATIONAL TRADE COMMISSION
# BEFORE THE COMMITTEE ON FINANCE, U.S. SENATE
# JANUARY 27, 1984

Good morning, Mr. Chairman and Members of the Committee. I am pleased to have this opportunity to discuss the International Trade Commission's recent studies of the Generalized System of Preferences (GSP) and to provide additional data of possible interest to this Committee. With me today are several staff specialists, who also will be available to respond to specific questions from the Committee.

As you know, the ITC is an independent factfinding and judicial agency, which works closely with Congress on trade-related matters. We seek to monitor all aspects of international trade and provide the President and Congress with timely analyses on issues requiring trade policy decisions. From this perspective, it is obviously not my purpose to either support or oppose renewal of the GSP program. Rather I wish only to present factual material that I hope will be of help to you in evaluating GSP and its impact on the United States.

In May 1983, the Commission completed a staff report entitled An Evaluation of U.S. Imports under the Generalized System of Preferences.[1] That report relied on data through 1981. This morning I would like to update our general conclusions, based on an analysis of 1982 trade data. In my judgment, this new material does not alter significantly our overall published conclusions.

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[1] USITC Pub. No. 1379, May 1983.

Here are some of our major findings:

First, U.S. GSP imports rose from $5.2 billion in 1978 to $8.5 billion in 1982, increasing at an annual rate of approximately 13 percent. The machinery and equipment sector and the miscellaneous manufactures sector accounted for roughly one-half of all GSP imports during 1978-1982.

Second, GSP imports accounted for 4.9 percent of total nonpetroleum imports in 1982, rising modestly from 4.1 percent in 1978. On a sector basis, the miscellaneous manufactures sector had the highest share of GSP imports relative to total imports, averaging 13.8 percent over the period. This sector includes such items as furniture, toys, jewelry, and certain sporting goods. The other sectors averaged a 3 to 5 percent ratio of GSP imports to total imports over the five-year period.

To keep these percentages in perspective, it is important to remember that some sectors are more open to GSP imports than others. For example, the textile and apparel sector is relatively closed to GSP imports. (In 1982, only 6 percent of textiles and apparel imports were eligible for GSP treatment. The comparable figures for the other sectors were: agriculture, 27 percent; forest products, 16 percent; chemicals, 48 percent; minerals and metals, 28 percent; machinery and equipment, 42 percent; and general manufactures, 74 percent.)

Furthermore, we should not attribute the 4.9 percent ratio of GSP imports to total imports entirely to the GSP program. Undoubtedly, many of these articles would have been imported from beneficiary countries whether or not a GSP program existed.

Third, GSP imports have not resulted in significant increases in the overall import share of the U.S. market. This conclusion rests on a sector-by-sector examination of the rate of growth of GSP imports relative to total imports, the extent to which overall market penetration by imports has increased, and the magnitude of GSP imports relative to apparent U.S. consumption. Overall, GSP imports accounted for approximately 0.5 percent or less of apparent U.S. consumption during the 1978-82 period. Miscellaneous manufactures, the sector with the largest GSP import penetration, had an average GSP import-to-consumption ratio over the entire period of 2.1 percent. The GSP import-to-consumption ratio in each of the other sectors averaged from 0.2 percent to not quite 0.6 percent over the period. Only in the sectors of minerals and metals and miscellaneous manufactures was there any increase in this ratio in 1982 compared to 1981.

At this point, one might understandably ask: what has limited the degree to which GSP imports have penetrated the U.S. market? The Commission staff have identified a number of market-limiting factors, such as the limited product coverage of GSP eligibility. In 1982 only 36 percent of total imports were eligible. Also, they pointed to the selective nature of the GSP program, which tends to exclude commodities considered import-sensitive, like textiles, footwear and steel. Next, they noted that rates of duty are moderate on GSP-eligible items, (averaging 7 percent ad valorem in 1982) reducing the advantage of GSP status. In addition, the "competitive-need" provisions, the annual review process, and "graduation" all act as checks in areas of rapidly rising GSP imports. Several other possible limitations on the GSP program include recognition of the temporary nature of the program (it ends on January 4, 1985, unless renewed) and the fact that many GSP beneficiary nations simply lack the technology, manufacturing capacity, basic infrastructure and skilled labor necessary to expand exports to the U.S. market.

Furthermore, our data suggest that in many areas where GSP imports have increased, this increase has come at the expense of imports from developed countries. This substitution of GSP imports for other imports tends to limit the impact of GSP imports on overall market penetration.

When we move from overall trends to individual industry-commodity groups, there are instances where GSP imports have resulted in significant increases in import penetration. First, let me comment on the agricultural, animal, and vegetable products sector. During 1978-81, the total GSP imports in the agricultural sector rose steadily from $614 million to $1.4 billion before falling to $902 million in 1982. Similarly, the ratio of GSP imports to total imports increased from 3.6 percent in 1978 to a peak of 6.7 percent in 1981, and then dropped to 4.7 percent in 1982.

In 1982, sugar accounted for about one-third of total GSP imports in this sector. Other important products for GSP imports were alcoholic beverages, leather and molasses. During 1978-82, GSP imports in the agricultural sector were equivalent each year to 0.5 percent of domestic consumption or less. Such imports probably would have been significantly higher had it not been for the competitive-need criteria of the GSP, which resulted in certain major supplying countries being ineligible for GSP treatment.

Now, let me turn to the forest products sector. GSP imports during 1978-82 rose from $269 million in 1978 to $316 million in 1982. The ratio to total imports averaged 3.5 percent over the period.

During 1978-82, annual GSP imports in the forest products sector remained unchanged at 0.2 percent of domestic consumption. GSP imports would have been significantly higher had it not been for the competitive-need criteria of the GSP, which had the effect of limiting GSP imports from major supplying countries. There were no commodity industry groups in this sector which showed significant import gains in the domestic market as a result of the GSP.

In the textiles, apparel and footwear sector, GSP imports, after declining 18 percent from 1978 to a total of $262 million in 1979, climbed 42 percent in 1980 and another 11 percent, to a total of $412 million in 1981, and then dropped to $361 million in 1982. GSP imports in the textiles and apparel sector were relatively insignificant during 1978-82, averaging less than 4 percent of total imports and less than 1 percent of total consumption. One important explanation for this finding is that section 503 (c)(1) of the Trade Act of 1974 excludes textiles and apparel subject to textile agreements--about 80 percent of textile and textile product imports--from GSP eligibility. The only products eligible for GSP are those not made in the United States, such as manmade-fiber artificial flowers; those made of miscellaneous textile fibers, such as silk fabrics; and those made of nontextile materials (including footwear parts that are imported by or on behalf of the U.S. footwear industry, and fur apparel). Those GSP-eligible items, along with gloves, captured a growing share of total imports and domestic consumption during the 1980's. I should add that all footwear is excluded from GSP eligibility under section 503 (c)(1) of the Trade Act of 1974. The only footwear item that has been granted GSP treatment is zoris (i.e., shower clogs or thonged sandals), which are not made in the United States.

In the chemicals and related products sector GSP imports rose from $464 million in 1978 to $820 million in 1982. The ratio of such imports to total imports increased from 4.6 percent to 6.2 percent over the period. However, market penetration by GSP imports in this sector remained at 0.3 percent throughout the period. There were no commodity/industry groups in which there were significant import gains in the domestic market as a result of the GSP.

In 1982 the largest group of articles imported was fabricated articles of rubber and plastics at $271 million, followed by $84 million of medicinals, $62 million of inorganic pigments, $58 million of nonbenzenoid organic chemicals, $57 million of inorganic chemicals, and $49 million of rubber and plastics waste, scrap and basic forms. Imports in this sector have remained small for several reasons, including a general lack of sufficient indigenous raw materials in many of the beneficiary countries for the production of petrochemicals and the lack of GSP treatment for certain product areas such as most benzenoid chemicals.

Now, let me offer a few comments about the *minerals and metals sector*. GSP imports in this sector rose from $929 million in 1978 to $1.5 billion in 1982; the ratio of such imports to total imports increased from 3.8 percent to 5.2 percent. The GSP imports were concentrated in the metallic ores, metals and metal products subsector ($1.2 billion in 1982), with copper the largest category ($212 million), followed by handtools ($127 million), aluminum ($75 million) and certain ferroalloys ($53 million). During 1978-82, GSP imports in this sector annually accounted for only 0.7 percent or less of apparent U.S. consumption.

GSP imports have had a much greater impact on the *machinery and equipment sector*. The value of GSP imports increased from $1.3 billion in 1978 to $2.6 billion in 1982, or by 94 percent. However, GSP imports averaged only about 3 percent of total imports in the sector over the period. In 1982 GSP imports were most heavily concentrated in the electrical machinery and equipment subsector, which accounted for 51 percent of the total that year.

Although GSP has been a significant factor in the trade of certain individual products, the effect of GSP on the machinery and equipment sector as a whole was not significant, averaging approximately 0.5 percent of apparent U.S. consumption over the period. One explanation is that the bulk of the products included in this sector are not suited for large-volume manufacture in developing countries. The limitations in the developing countries include such things as technology, manufacturing capability, infrastructure, and other basic inputs. However, as a result of GSP, the following commodity/industry groups made significant gains in the U.S. market: office machines; motors and generators; radio telegraphic and telephonic apparatus; and articles for making and breaking electrical circuits.

Finally, let me comment on another product sector--miscellaneous manufactures--where GSP imports have the greatest impact. In this sector, GSP imports increased annually during 1978-82, rising from $1.3 billion to $1.9 billion, or by 53 percent. Interestingly, GSP imports averaged 13.8 percent of total imports over the period, higher than in any of the other six categories. In 1982, although GSP imports entered in virtually all major product areas within this diverse product sector, 58 percent consisted of furniture (other than medical), toys, jewelry, and certain sporting goods--products which require a high level of labor in their manufacture.

The ratio of total GSP imports to apparent U.S. consumption, while greater than the ratios for other sectors, remained low, averaging only 2.1 percent during 1978-82. In only one product area within this grouping have GSP imports become significant in the domestic market. In this sector--costume jewelry--GSP imports increased at an annual rate of 12.6 percent during 1978-82, and as a share of U.S. consumption, rose from 6.6 percent in 1978 to 13.4 percent in 1982.

As I have suggested in my product-sector discussion, GSP imports are concentrated in machinery and equipment as well as miscellaneous manufactures. Over the period 1978-1982 these have accounted for about 50 percent of GSP imports and for the first 11 months of 1983, they accounted for 52 percent of imports (32 percent for machinery and equipment; 20 percent for miscellaneous manufactures). In 1983 (11 months) agricultural imports were 11 percent of total GSP imports; forest products, 3.8 percent; textiles, 4.5 percent; chemicals, 11 percent; and minerals, 17 percent.

There is also a concentration of GSP import sources geographically. Over the same time period (January-November 1983) GSP imports from Taiwan, Korea, Hong Kong, Mexico and Brazil totaled $6.4 billion. This amounted to 65 percent of total GSP imports ($9.874 billion). Sixty-one percent of the GSP imports from these five countries came under the headings machinery and equipment or miscellaneous equipment, compared with 52 percent of all GSP imports.

In addition to our study evaluating U.S. imports under the GSP, Commission staff economists completed another study of relevance: Changes in Import Trends Resulting from Excluding Selected Imports from Certain Countries from the Generalized System of Preferences.[2] This research examined 275 country-product exclusions in 1979 through 1981 to determine the effects of losing duty-free status on import shares and real imports.

Overall, the establishment of country-product exclusions did seem to affect imports of the country-product pairs, but the effects differed, as one might suspect, according to the reasons for the exclusions. For instance, when the 50-percent limit led to country-product exclusions, import share tended to decline moderately in the three years after the exclusions were established. When a dollar limit led to country-product exclusions, the effect was somewhat different: import share increased very slightly in the year after exclusion before declining moderately in subsequent years.

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[2] Report on Inv. No. 332-147, USITC Pub. No. 1384, May 1983.

Our study also offered some evidence on which countries benefit most from country-product exclusions. The beneficiaries more often than not were advanced developing countries and developed countries, not less developed countries. Because the products that were involved in the majority of the exclusions were manufactured products, the countries that gained as a result of the exclusions tended to be the advanced developing countries and developed countries that produce the majority of manufactured products.

Mr. Chairman, this completes my testimony. I would be delighted to respond to any questions the Committee may have.

# APPENDIX

Table 1.--U.S. shipments, imports for consumption, exports of domestic merchandise, and apparent consumption, 1978-82 1/

| Sector | Producers' shipments | Imports |  | Exports | Apparent consumption | Ratio of-- |  |  |
|---|---|---|---|---|---|---|---|---|
|  |  | Total | GSP |  |  | GSP to total imports | Total imports to consumption | GSP imports to consumption |
|  | Million dollars |  |  |  |  | Percent |  |  |
| Agricultural, animal, and vegetable products: |  |  |  |  |  |  |  |  |
| 1978 | 250,899 | 17,112 | 614 | 29,491 | 238,520 | 3.6 | 7.2 | 0.3 |
| 1979 | 275,567 | 19,399 | 803 | 34,835 | 260,131 | 4.1 | 7.5 | .3 |
| 1980 | 301,707 | 20,023 | 1,323 | 40,733 | 280,997 | 6.6 | 7.1 | .5 |
| 1981 | 319,382 | 20,261 | 1,355 | 43,679 | 295,964 | 6.7 | 6.8 | .5 |
| 1982 | 324,393 | 19,038 | 902 | 37,142 | 306,289 | 4.7 | 6.2 | .3 |
| Forest products: |  |  |  |  |  |  |  |  |
| 1978 | 151,199 | 8,501 | 269 | 5,774 | 153,926 | 3.2 | 5.5 | .2 |
| 1979 | 169,759 | 9,699 | 337 | 7,806 | 171,651 | 3.5 | 5.7 | .2 |
| 1980 | 178,485 | 9,252 | 339 | 9,609 | 178,128 | 3.7 | 5.2 | .2 |
| 1981 | 200,433 | 9,647 | 349 | 9,218 | 200,863 | 3.6 | 4.8 | .2 |
| 1982 | 197,275 | 9,021 | 316 | 8,482 | 197,814 | 3.5 | 4.6 | .2 |
| Textiles, apparel, and footwear: |  |  |  |  |  |  |  |  |
| 1978 | 99,532 | 10,696 | 321 | 5,185 | 105,044 | 3.0 | 10.2 | .3 |
| 1979 | 105,550 | 11,015 | 262 | 7,190 | 109,375 | 2.4 | 10.1 | .2 |
| 1980 | 111,122 | 12,039 | 370 | 8,845 | 114,316 | 3.1 | 10.5 | .3 |
| 1981 | 117,008 | 13,984 | 412 | 8,348 | 122,644 | 2.9 | 11.4 | .3 |
| 1982 | 113,997 | 14,704 | 361 | 6,639 | 122,062 | 2.5 | 12.1 | .3 |
| Chemicals and related products 2/: |  |  |  |  |  |  |  |  |
| 1978 | 180,225 | 10,201 | 464 | 16,829 | 173,597 | 4.6 | 5.9 | .3 |
| 1979 | 226,221 | 11,766 | 536 | 23,553 | 214,434 | 4.6 | 5.5 | .3 |
| 1980 | 244,416 | 12,490 | 612 | 29,004 | 227,902 | 4.9 | 5.5 | .3 |
| 1981 | 268,134 | 13,506 | 782 | 30,749 | 250,891 | 5.8 | 5.4 | .3 |
| 1982 | 281,388 | 13,341 | 820 | 29,174 | 265,555 | 6.2 | 5.0 | .3 |
| Minerals and metals: |  |  |  |  |  |  |  |  |
| 1978 | 203,833 | 24,323 | 929 | 11,495 | 216,661 | 3.8 | 11.2 | .4 |
| 1979 | 234,919 | 27,156 | 1,219 | 19,530 | 242,545 | 4.5 | 11.2 | .5 |
| 1980 | 227,635 | 31,751 | 1,357 | 25,090 | 234,296 | 4.3 | 13.6 | .6 |
| 1981 | 233,035 | 34,386 | 1,511 | 19,953 | 247,468 | 4.4 | 13.9 | .6 |
| 1982 | 199,020 | 29,247 | 1,527 | 14,760 | 213,507 | 5.2 | 13.7 | .7 |
| Machinery and equipment: |  |  |  |  |  |  |  |  |
| 1978 | 359,704 | 48,146 | 1,339 | 59,504 | 348,346 | 2.8 | 13.8 | .4 |
| 1979 | 391,910 | 53,630 | 1,649 | 70,260 | 375,280 | 3.1 | 14.3 | .4 |
| 1980 | 402,570 | 60,078 | 1,748 | 84,307 | 378,341 | 2.9 | 15.9 | .5 |
| 1981 | 432,570 | 68,542 | 2,262 | 95,536 | 405,576 | 3.3 | 16.9 | .6 |
| 1982 | 424,581 | 72,360 | 2,601 | 87,291 | 409,650 | 3.6 | 17.7 | .6 |
| Miscellaneous manufactures: |  |  |  |  |  |  |  |  |
| 1978 | 65,162 | 9,277 | 1,271 | 9,446 | 64,993 | 13.7 | 14.3 | 2.0 |
| 1979 | 72,190 | 10,508 | 1,515 | 11,460 | 71,238 | 14.4 | 14.8 | 2.1 |
| 1980 | 79,200 | 11,583 | 1,602 | 13,720 | 77,063 | 13.8 | 15.0 | 2.1 |
| 1981 | 83,590 | 13,298 | 1,758 | 14,894 | 81,994 | 13.2 | 16.2 | 2.1 |
| 1982 | 85,200 | 14,133 | 1,947 | 15,290 | 84,043 | 13.8 | 16.8 | 2.3 |
| Total, all sectors: |  |  |  |  |  |  |  |  |
| 1978 | 1,310,554 | 128,257 | 5,207 | 137,724 | 1,301,087 | 4.1 | 9.9 | .4 |
| 1979 | 1,476,116 | 143,172 | 6,322 | 174,635 | 1,444,654 | 4.4 | 9.9 | .4 |
| 1980 | 1,545,135 | 157,216 | 7,351 | 211,307 | 1,491,043 | 4.7 | 10.5 | .5 |
| 1981 | 1,654,152 | 173,625 | 8,429 | 222,377 | 1,605,400 | 4.9 | 10.8 | .5 |
| 1982 | 1,625,854 | 171,844 | 8,473 | 198,778 | 1,598,920 | 4.9 | 10.7 | .5 |

1/ The trade data provided in this table are based on trade in schedules 1 through 7 of the Tariff Schedules of the United States (imports) and schedule B (exports); trade under schedule 8 and other special provisions is not included. Import values used in the report are based on Custom value; export values are based on f.a.s. value, U.S. port of export.

2/ Excludes data on petroleum, natural gas, and related products.

GSP imports for selected countries, Jan.-Nov. 1983

(Value in millions of dollars)

| Sector | Brazil |  | Hong Kong |  | Korea |  | Mexico |  | Taiwan |  | Five country total |  |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  | Value | Percent of total | Value | Percent of total | Value | Percent of total | Value | Percent of total | Value | Percent of total | Value | Percent of total |
| Agricultural, animal, and vegetable products------- | 67 | 12 | 19 | 2 | 15 | 1 | 98 | 15 | 59 | 2 | 258 | 4 |
| Forest products------------ | 13 | 2 | 23 | 2 | 22 | 2 | 40 | 6 | 145 | 5 | 243 | 4 |
| Textiles, apparel, and footwear---------------- | 23 | 4 | 43 | 4 | 106 | 8 | 11 | 2 | 68 | 2 | 251 | 4 |
| Chemicals and related products---------------- | 98 | 17 | 98 | 10 | 75 | 5 | 155 | 24 | 225 | 8 | 651 | 10 |
| Minerals and metals-------- | 99 | 17 | 117 | 12 | 150 | 11 | 154 | 24 | 591 | 22 | 1,111 | 17 |
| Machinery and equipment---- | 256 | 45 | 469 | 47 | 683 | 48 | 127 | 19 | 999 | 36 | 2,534 | 40 |
| Miscellaneous manufactures------------ | 19 | 3 | 230 | 23 | 357 | 25 | 73 | 11 | 644 | 24 | 1,323 | 21 |
| Total----------------- | 575 | 100 | 999 | 100 | 1,409 | 100 | 658 | 100 | 2,731 | 100 | 6,372 | 100 |

Senator **Danforth**. Thank you, Mr. Eckes. I would like you to expand on the last sentence of your substantive testimony about the benefits of the lesser developed countries versus the more advanced developing countries.

Mr. **Eckes**. Certainly. I think I will refer to Mr. Tempalski, who is the economist who worked on the study and invite his comments.

Mr. **Tempalski**. Senator, in our study, we found that the countries that gained market share in products in which other beneficiary countries had lost GSP status tended to be advanced developing countries, or else the developed countries—the EC countries, Canada, or Japan.

In only a limited number of cases where some beneficiaries lost GSP status in some products—and this is in the year immediately following the removal from GSP in a country of a product—did other less developed countries increase their market share in these products.

Senator **Danforth**. When GSP status is lost by a country, the effect is not to benefit lesser developed countries but to advantage developed countries. Is that correct?

Mr. **Tempalski**. Yes, in the 2 years following.

Senator **Danforth**. Now on the table—the second table—on the left of the appendix, this indicates by country the five leading beneficiaries of GSP. Is that right?

Mr. **Eckes**. That is correct.

Senator **Danforth**. And the leading beneficiary would be what?

Mr. **Eckes**. Would be Taiwan according to that.

Senator **Danforth**. Would be Taiwan. And then second on the list would be what?

Mr. **Eckes**. It would be Korea, I believe.

One might note that imports from Korea and Taiwan tend to be concentrated in machinery and equipment and miscellaneous manufactures, perhaps disproportionate to imports from the GSP eligible countries generally.

Senator **Danforth**. Do you believe that the thrust of the GSP should be to disproportionately aid Taiwan and Korea?

Mr. **Eckes**. That's a difficult policy question, Senator, that I really haven't addressed in terms of the study here. I think we have to decide in terms of our national interests whether it is appropriate to provide benefits to advanced industrialized countries. I don't think the ITC should take a position on that.

Senator **Danforth**. OK. In any event, if they were not benefited, your view would be that the shift of advantage would go not to the lesser developed countries, but instead to industrialized nations. How about to our own manufacturers?

Mr. **Eckes**. Based on our studies, that would seem to be the conclusion. I caution that that was done over what period of time, Mr. Tempalski?

Mr. **Tempalski**. That was done, covering 1979 through 1981, with exclusions that occurred during those 3 years.

Mr. **Eckes**. It might be that some of the less developed countries are more competitive than they were a couple of years ago in some of these categories, but probably the conclusion would hold up.

Senator **Danforth**. What is the effect of graduation on our own industries?

Mr. **Eckes**. Mr. Simpson.

Mr. **Simpson**. We haven't looked into that. The extent to which there has been graduation hasn't been that great, and the Commission has not really examined that particular issue.

Senator **Danforth**. But your general testimony, as I understand it, is that with the exception of specified product lines, you don't think GSP has very much of an effect on U.S. manufacturing or U.S. industry.

Mr. **Eckes**. In the aggregate, I think that the overall figures would suggest that conclusion, but there are obviously individual products where there has been considerable impact, and I am sure you are going to hear a lot more from them this morning.

Senator **Danforth**. Do you have a judgment as to how much benefit GSP is to the countries that are designed to be beneficiaries?

Mr. **Eckes**. I am not sure that we do. I want to think about that one a little more.

Senator **Danforth**. The purpose of the program is to provide for economic growth in lesser developed countries. Do we have any basis for judging whether or not that is successful?

Mr. **Eckes**. We haven't examined that.

Senator **Danforth**. Senator Heinz.

Senator **Heinz**. I have no questions.

Senator **Danforth**. Thank you very much. There may be some follow-up.

Mr. **Eckes**. We will be delighted to work with you and the staff members in any way we can, Mr. Chairman. Thank you.

Senator **Danforth**. Thank you. Senator Heinz has a statement.

Senator **Heinz**. Mr. Chairman, first I commend you for calling these hearings on GSP. I think it is an important program. I would ask unanimous consent that the full text of my opening statement be a part of the record. I will just say briefly that I think this program is a useful device more in its potential than in its actual performance. A tremendous amount of the benefit of the GSP program is captured by a small handful of countries numerically—Taiwan, Korea, Hong Kong, Brazil, and Mexico—about two-thirds of the benefits of GSP go to them and not correspondingly to the poorest of the LVC's.

I have some reservations about the administration's bill. I think it sacrifices a golden opportunity to reduce trade barriers to American products, and many of the countries benefiting from GSP.

Earlier this week, I introduced legislation that would address those and other issues.

I won't take the time to describe that legislation. The opening statement is available. I don't expect any of our witnesses to comment on the provisions of my legislation in detail since it has only been in the record a day or two, but I do think that it is important for Congress—given the nature of the GSP program—and its importance to both us and Third World interests—to develop some very specific guidelines for the way the program operates, particularly one in which the newly industrializing countries, including the five I mentioned a moment ago, be strongly encouraged to take on responsibilities in trade commensurate with their stronger economies and the advantages that they now have.

Thank you, Mr. Chairman.

Senator DANFORTH. Thank you, Senator Heinz. Next, we have a panel of Mr. Brooks, Mr. Thomson, and Mr. Parsons.

Who would like to go first? Mr. Brooks?

## STATEMENT OF FREDERIC H. BROOKS, CHAIRMAN OF THE BOARD, MacGREGOR SPORTING GOODS, EAST RUTHERFORD, N.J.

Mr. BROOKS. Senator Danforth and members of the committee. My name is Frederic H. Brooks. I am chairman of the board of MacGregor Sporting Goods Co., and member of ISAC 4.

The consumer goods ISAC consists of 39 members representing approximately 125 industry segments. The ISAC formed a task force on the generalized system of preferences.

The report of the task force was adopted by the entire ISAC after certain compromise positions between those members who strongly support renewal of GSP and those who for various reasons are opposed to any renewal at all.

Essentially, the ISAC supports the administration's position with respect to renewal.

However, there are three areas with which we either disagree or believe greater clarification is necessary. They are as follows:

First, since the principal purpose of the preference is to encourage trade and investment in lieu of aid, we believe the proposed legislation does not provide sufficient predictability to encourage investment. We therefore propose that GSP eligibility for a given product should not be removed without a notice period of 3 years.

This would be irrespective of competitive need limitations. Such removal should be permanent. This change, however, should not affect the various safeguards otherwise built into the law.

Where there is a threat of adverse impact on American industry, the removal of a product or product category from GSP treatment should be immediate.

Second, we believe that the local content rule which requires that 35 percent of a product come from the country of origin is too restrictive and operates to the detriment of the United States. The restrictions encourage the use of local content or content from other nations which is then substantially transformed in the country of origin rather than the use of U.S. components.

In order to encourage utilization of U.S. materials, we would propose that the U.S. content of the product be eliminated from both the numerator and denominator in calculating the 35 percent local origin requirement.

We have been informed that Customs would consider this somewhat burdensome from an administrative point of view, but we cannot see the reason for this inasmuch as the calculations would be done by the presenter of the documents.

Third, we understand that the proposed legislation provides for a 10-year renewal. The members of the ISAC are concerned that, during this period, one or more beneficiary countries might reach a level of economic strength which would preclude the desirability of its continuing to be a beneficiary.

Whereas we recognize that the President would have the authority to remove a country from eligibility, we feel that such a removal might be politically difficult. Therefore, we propose the following:

First. The GSP should be renewed for a period of somewhat less than 10 years, and our recommendation is for an extension of 5 years, and

Second. Perhaps more importantly, that a trigger mechanism for automatic removal based upon either per capita gross national product or another reasonable standard be part of the renewal.

We strongly prefer that the recommendations which we are urging be incorporated into the legislative renewal.

The impact of the generalized——

Senator DANFORTH. I am going to have to cut you off pretty soon, Mr. Brooks. We have 18 witnesses, and you have already gone over.

Can you finish it up in a sentence or two?

Mr. BROOKS. Yes. The impact of the GSP is perhaps most keenly felt by our sector. We therefore are most appreciative of your consideration.

Senator DANFORTH. Thank you very much. Mr. Thomson.

[The prepared statement of Frederic H. Brooks follows:]

| | |
|---|---|
| Testimony of: | Frederic H. Brooks<br>Chairman of the Board<br>MacGregor Sporting Goods, Inc. |
| On behalf of: | Industrial Sector Advisory Committee #4<br>(Consumer Goods) |

Senator Danforth and Members of the Committee:

The Consumer Goods ISAC consists of 39 members representing approximately 125 industry segments. This ISAC formed a task force on the Generalized System of Preferences. The report of the task force was adopted by the entire ISAC after certain comprised positions between those members who strongly support renewal of GSP and those who, for various reasons, are opposed to any renewal at all.

Essentially the ISAC supports the administration's position with respect to renewal.

However, there are three areas with which we either disagree or believe greater clarification is necessary. They are as follows:

(1) Since the principal purpose of granting the preference is to encourage trade and investment in lieu of aid we believe that the proposed legislation does not provide sufficient predicability to encourage investment. We, therefore, propose that GSP eligibility for a given product should not be removed without a notice period of three years. This would be irrespective of competitive need limitations. Such

removal should be permanent. This change, however, should not affect the various safeguards otherwise built into the law. Where there is threat of adverse impact on American industry the removal of a product or product category from GSP treatment should be immediate.

(2) We believe that the local content rules which require 35% of a product to come from the country of origin are too restrictive and operate to the detriment of the United States. The restrictions encourage the use of local content or content from other nations which is then substantially transformed in the country of origin rather than the use of U.S. components. In order to encourage utilization of U.S. materials, we propose that the U.S. content of the product be eliminated from both the numerator and denominator in calculating the 35% local origin requirement. We have been informed that Customs would consider this somewhat burdensome from an administrative point of view but we cannot see the reason for this inasmuch as the calculations would be done by the presentor of the documents.

(3) We understand that the proposed legislation provides for a ten-year renewal. The members of the ISAC are concerned that during this period one or more beneficiary countries might reach a level of economic strength which would preclude the desirability of it continuing to be a

beneficiary. Whereas we recognize that the President would have the authority to remove a country from eligibility we feel that such a removal might be politically difficult. Therefore we propose the following:

(a) that GSP should be renewed for a period of less than ten years and recommend an extension of only five years, and

(b) that a trigger mechanism for automatic removal based upon per capita gross national product or another reasonable standard must be part of the renewal.

We strongly prefer that the recommendations which we are urging be incorporated into the legislative renewal.

The impact of the Generalized System of Preferences is perhaps most keenly felt by our sector. We, therefore, are most appreciative of your consideration of our proposals.

## CONSUMER GOODS ISAC #4 RESOLUTION

The members of the Industry Sector Advisory Committee for Consumer Goods, ISAC #4, resolve that if there is a renewal of the GSP program, the following changes should be adopted, all of which are conditioned upon the acceptance of the concept of "adverse impact" as the harm standard to be used in granting or withdrawing GSP status:

(1) Prior to the implementation of any new GSP program, the International Trade Commission and the Office of the United States Trade Representative shall both hold hearings to determine which products and countries shall receive beneficiary status under the program. The relationship and trends of imports under individual product categories to domestic product shipments, apparent consumption and domestic production and employment will be taken into consideration, as well as any adverse impact or threat of adverse impact which may currently exist or be created due to such status being granted. Impact of the adoption of the Harmonized System Nomenclature on product categories and eligibility will also be considered. The input of Industry Sector Advisory Committees (ISACs) in these areas shall be considered.

(2) Once a competitive need threshold has been exceeded by a beneficiary country, the product category in question will be graduated and all GSP benefits removed. Unless there has been a showing of adverse impact or threat of adverse impact, this will take place at the beginning of the fourth year following the year in which the threshold was exceeded. During the three intervening years, again if there is no adverse impact or threat of adverse impact, graduated products will enter free of duty up to the dollar amount represented by the percentage limit or the absolute dollar limit, whichever is lower. Thereafter, the otherwise applicable duties will apply. Graduation will be permanent.

(3) Where there is a finding by the United States International Trade Commission of no current significant commercial production of a like or directly competitive U.S. product, there shall be no graduation based upon import share or dollar value.

(4) The GSP Task Force recommends that the term "injury" be changed to "adverse impact". The rationale for this change is that the denial or withdrawal of a unilaterally granted benefit such as GSP treatment should not be subject to as

stringent a test as other established domestic harm standards.

The President may grant, withdraw, suspend or limit the application of duty-free treatment. The President shall not grant GSP status or having granted it shall withdraw GSP status for any product where there has been adverse impact or where there is the reasonable likelihood of adverse impact on domestic industry from importation of the product in question from any country or countries (whether beneficiary or not). In making his determination, the President shall not consider the profitability of domestic producers. The President shall consider the trend of market share growth of imports in the domestic market and the impact on other products produced by the same industry. Removal of a product based on the above shall be immediate.

A finding of injury under Title VII of the Trade Agreements Act of 1979, Title II of the Trade Act of 1974, Section 232 of the Trade Expansion Act of 1962 or Section 337 of the Tariff Act of 1930 on GSP eligible products shall be deemed to be a finding of adverse impact for GSP purposes.

(5) Where appropriate, a beneficiary country must have joined the GATT and be a signatory of the Codes. A finding of violation of the GATT or any of the Codes would result in loss of GSP status.

(6) Rules of origin should be changed to provide that raw materials or partially finished content sourced in the U.S. should not be counted in either the numerator or denominator for determining origin.

(7) Accumulation from various beneficiary countries to meet country of origin criteria should be allowed but the country which converts the product into its final state shall be charged with the export. Graduated products or components thereof from other beneficiary countries shall not be credited towards the value added requirements.

(8) Reclassification or subdivision of tariff line categories to enable a country to maintain GSP eligibility should not be allowed. However, new tariff line items not constituting reclassification or subdivision can be created for the purpose of adding products to or withdrawing products from the GSP program.

(9) Redesignation after a showing of adverse impact or a reasonable likelihood thereof should be allowed but only after a period of three years and only through the petition process, including a public notice and hearing to determine that redesignation will not have an adverse impact on U.S. industry.

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## STATEMENT OF DOUGLAS THOMSON, PRESIDENT, TOY MANUFACTURERS OF AMERICA, NEW YORK, N.Y.

Mr. THOMSON. Mr. Chairman and members of the committee. My name is Douglas Thomson. I am the president of the Toy Manufacturers of America. This trade association represents some 250 major toy and game manufacturers, and we believe we account for about 90 percent of all the toys and games that appear on the retail shelves in the United States.

We appreciate the opportunity to put forth our viewpoints. We submitted a rather lengthy discussion paper, and I would just like to summarize it.

The U.S. toy industry leads the world in the development of marketing toys and games and enjoys a leadership role in all aspects of a rather volatile competitive industry. We are in favor of extension of GSP through S. 1718 because, one, elimination of GSP will not increase jobs or production in the United States in the toy industry. Decisions to contract, manufacture, or buy items in the developing countries did not hinge on tariff levels.

These decisions have been made long ago based on labor costs, taxes, regulatory costs in the United States. The differential between the United States and the developing countries in labor alone is such that GSP is not a critical factor.

Two, this industry has been able to grow by a complementary program of imports, domestic manufacture of design, packaging, and marketing of competitively priced products.

The U.S. consumer receives the best value in the world for comparable product. Employment opportunities have opened up in any number of areas due to the health of the industry.

Three, removal of GSP would only raise the costs and ultimately some of those costs are passed onto the consumer in the form of price increases.

Four, the bill's provision for preferential waiver of the competitive need limit will provide needed flexibility to permit maximizing the benefits of GSP to American industry, and to consumers, where no threat to domestic producers exists at all.

It would also allow for more accurate pricing in an industry that takes orders very early in the year for later delivery and, therefore, must guess on how much to cover for costs.

We recommend passage of S. 1718 and appreciate the opportunity to speak to it.

Senator DANFORTH. Thank you, sir. Mr. Parsons.

[The prepared statement of Douglas Thomson follows:]

## Statement Of Douglas Thomson, President Of The Toy Manufacturers Of America, Inc. In Support Of The Generalized System Of Preferences Renewal Act Of 1983

This Statement is submitted on behalf of the Toy Manufacturers of America, Inc. (TMA) in support of the "Generalized System of Preferences Renewal Act of 1983" (GSP). The TMA was founded in 1916 and represents 250 American toy manufacturers, who are responsible for 90 percent of all toy sales in the United States. In 1982, the industry reported total shipments of close to $6 billion in toys, dolls and games, almost $2.5 billion more in shipments than in 1977. Between 1976 and 1982, TMA members imported over $7 billion worth of board games, video games, dolls and doll clothing, magic tricks and other popular toys and games; close to $2 billion worth of these items entered duty-free from developing countries during these years under the GSP program, representing a savings of over a quarter billion dollars in duties.

TMA believes that renewal of GSP through 1994 for toys, dolls and games, from all developing countries, including the more advanced beneficiaries such as Hong Kong, Taiwan and Korea, is in the nation's best economic interest. The GSP programs of all other industrial countries have been renewed at least through 1990. The commercial experiences of TMA's members eloquently speak for the substantial economic benefits of the GSP, both to the toy industry and the American public. We believe this experience is equally relevant for U.S. industry as a whole. The TMA urges the United States Congress to pass S. 1718 renewing the GSP program because:

1. GSP permits the domestic toy industry and similarly situated industries to maintain and increase production and employment in the United States;
2. Elimination of the GSP will not increase jobs or production in the United States but will substantially increase the prices of toys and other like products purchased by the American public; and,
3. The Bill's provision for Presidential waiver of the competitive need limit will provide needed flexibility to permit maximizing the benefits of GSP to American industry and consumers where no threat to domestic producers exists.

The United States International Trade Commission (ITC) in its Evaluation of U.S. Imports Under the Generalized System of Preferences (USITC Pub. No. 1379, May 1983), found that the annual rate of GSP imports increased approximately 17 percent from 1978 to 1981, reaching $8.4 billion in that year. Even considering this increase in imports of more than $3 billion, the penetration level of GSP imports in the U.S. market remained exceedingly low - no more than 0.5 percent. The principal benefit of the GSP to designated countries has been the promotion of economic development and diversification, while any detriment to American industry is virtually too small to be measured. One of the reasons why import penetration has been so low is that many GSP beneficiary countries still lack sufficient technology, manufacturing capacity, basic infrastructure for supporting plant facilities, and other inputs such as skilled labor and capital to take advantage of the trade opportunities offered by the U.S. government.

Increased trade with developing countries resulting from fewer trade barriers has been emphasized by the United States as an alternative to other forms of economic assistance. By increasing exports, these countries are able to acquire the foreign exchange which they need to buy equipment and commodities, often purchased from the importing country, like the U.S. Thus, by facilitating the importation of designated products, the GSP program actually benefits both the developing country and American producers who have goods for export. Debtor nations, such as Mexico, Argentina and Brazil, would experience extreme financial difficulty if their GSP benefits were abruptly ended or curtailed next year. The significant decline in U.S. exports to these and the other debtor developing nations in the past few years would, without question, be accelerated.

S. 1718 not only extends the GSP program, it also adds Presidential discretion for flexibility where it is in our national economic interest to recognize the favorable effect of specific foreign-sourced goods. The selective nature of the GSP program already tends to exclude import sensitive commodities, by limiting product coverage of eligible items to only about 35 percent of total

U.S. imports. Of this 35 percent, certain products from specific countries are automatically excluded in a given year by the competitive need formula. S. 1718 would give the President discretion to waive automatic cut-off of duty-free treatment when he finds it to be in our economic interest to do so.

The TMA considers this waiver provision to be a significant improvement over existing law because of its enlightened approach toward individual industry needs. Automatic competitive need limits are inflexible and have not allowed U.S. industry to make the most advantageous use of complementary production opportunities in beneficiary developing countries. Certainly this provision has not served the commercial interests of the American toy industry. This new provision would better enable the industry to take advantage of the opportunities of complementary production in these countries. By sourcing certain toys and games abroad, the toy industry has been able to rationalize production on the basis of labor and transportation costs, so that GSP imports actually complement American production, and lead to increased employment in production, design, marketing and packaging.

TMA believes that the toy industry's experience in developing an integrated industry utilizing both domestic production and imports to maximize sales of a non-essential product well illustrates the benefits to the U.S. economy of the GSP program. Because toys, games and dolls are labor-intensive, and the large variety of patterns and styles necessary to produce a full line of items prevents automation of most of the production process, the domestic part of the industry concentrates on the production of larger, higher-quality items, with imports supplying the remainder of the market.

For instance, in its study on Dolls And Stuffed Toy Animals (USITC Pub. No. 841, Control No. 7-5-7, July 1980), the ITC found that:

> Doll clothing imported separately is used primarily on domestically produced dolls, and although such imports have only been eligible under GSP since March 1, 1978, the fact that nearly 75 percent of total imports in that year and more than 85 percent in 1979 entered under GSP indicates U.S. manufacturers' willingness to take advantage of these savings. (At 13)

Rather than competing with American-made goods, imports from developing countries actually round out the toy, doll and game offerings which the domestic companies can provide the U.S. market. Some examples from the ITC's recent study of Toy, Games And Wheel Goods (USITC Pub. No. 841, Control No. 7-5-27, March 1983) include most dice and all dominoes, which are imported by board game producers, because the domestic machinery is too old to produce these items competitively; most plastic model kits are made domestically, while imported kits tend to be models that are not domestically produced, such as high-priced brass locomotive kits from Japan. In the case of dollhouse miniatures, imports tend to concentrate on inexpensive reproductions (often based on domestic designs), whereas domestic production more often occupies the higher priced, low-volume end of the market. Similarly, imports generally occupy the lower price ranges for magic tricks and joke articles, particularly the plastic practical joke articles, whereas domestic production, which accounts for a large share of consumption, is concentrated in the higher quality magic tricks and more complex practical joke articles.

TMA's member companies have actively sought out low cost foreign sources such as Hong Kong, Taiwan and Korea for the explicit purpose of complementing domestic production with merchandise which they cannot produce economically in substantial commercial quantities in the United States. The competitive need exclusion provision in the present law has worked to frustrate these efforts. Overall, automatic competitive need exclusions grew almost 275 percent, from $1.9 billion in 1976 to $7.1 billion in 1982. The intended uses for the automatic competitive need limitations were to establish a benchmark for determining when products are able to compete in the U.S. marketplace and therefore no longer need GSP eligibility; to reallocate GSP benefits to less competitive developing countries; and, to provide a measure of protection to domestic producers of like or directly competitive products. S. 1718 would permit the President to weigh these objectives along with others he determines to be relevant and then decide on a case-by-case basis whether exclusion of a product from a country is in the overall economic interests of the U.S.

In the case of imported toy products he would consider that the majority of toys sold in the United States are either products of, or contain component parts produced in, developing nations around the world. Quoting the ITC, again, from its report on Toys, Games And Wheel Goods:

> There are some small firms devoted solely to the production of certain types of toys, but most of the major producers manufacture a wide variety of toys, games, and children's vehicles. In addition, most domestic producers, including all the major firms, import to some extent, ranging from the importation of certain lines or parts to significant investment in foreign production facilities for supplying both the United States and foreign market. (At 87) (Emphasis added.)

This decision to import from developing countries is based on the commercial assessment by domestic toy producers of labor and freight costs involved in making and shipping toys:

> As labor costs provide a disincentive for manufacturers to produce high-labor-component toys domestically, transportation costs provide an incentive to produce larger toys in the United States. Domestic production is weighted toward larger nonmechanized toys of all types, particularly wooden and steel toys. There is also a trend in the production of stuffed toys having a spring mechanism

> and filled toys to have the cutting and sewing done in foreign facilities and the stuffing or filling and finishing done in the United States. In this manner, the domestic manufacturer can take advantage of the lower labor costs abroad in producing the parts requiring the highest labor input, while avoiding much of the transportation cost penalty by shipping toy skins instead of finished figures. (At 89)

Thus, for an industry like the toy, game and doll industry, automatic "competitive need" limits do not make sense - these items are not in competition with American products but are complementary to and essential for American production and sales.

S. 1718 would permit the President to continue the GSP designation of a highly productive developing country with respect to an eligible article if he deems it to be in the national economic interest. This provision would make it possible, in conditions of competition such as the U.S. toy industry faces, to achieve that ideal situation where American workers, producers and consumers enjoy the advantages of open trade without injury from duty-free imports. Thus, the President would be able to take into account such industry-specific factors as the need to maintain stable and reliable sources of supply; the relationship of labor, material and transportation costs; and the technical capability to produce a particular product in the country in which manufacturing operations are performed. In the American toy market, where a substantial portion of the products may be new each year, many of these toys would simply not exist if complementary foreign sources of supply were not available.

Automatic competitive need exclusions under present law have substantially failed to advance the reallocation of GSP benefits to the less developed of the beneficiary countries. In the ITC's Annual Report on the Operations Of The Trade Agreements Program (USITC Pub. No. 1414, 1983), evidence of this failure was discussed, and the Commission found that, of the 140 countries and territories eligible for GSP tariff treatment, only ten countries in 1982 accounted for almost 84 percent of all GSP imports. This situation continues despite the operation of the competitive need exclusion provision. It is simplistic to suppose that the competitive need provision can be used to engineer the target countries for U.S. investment. The investment decisions involved in sourcing from developing countries will not abruptly change with the cut-off of GSP eligibility, and long-term investment decisions in the less developed countries have to take account of more than the duty-free treatment of the end product. Besides, investors now must face the future cut-off of GSP from even the secondary supplying country, to which production may be shifted, once it too becomes a successful exporter to the U.S.

In the ITC's discussion of stuffed toy animals in its Dolls And Stuffed Toy Animals Report, it was observed in commenting on investment decisions that:

> [M]uch of the Korean production resulted from the direct investment by a number of U.S. stuffed toy producers in order to take advantage of the lower Korean wage rates. This advantage was apparent to other producers as well because at least one major West German manufacturer now obtains part of its product line from Korea. The U.S. investment also spawned a number of independent stuffed toy producers which took advantage of the favorable U.S. stuffed toy market. These producers, as part of an overall Korean toy industry push to increase exports, sold products to a relatively new group of importers which had not previously been marketing stuffed toys in the United States. (At 13-14)

The investment decisions of American toy manufacturers who source their products from abroad enable them to make efficient use of foreign labor and to employ substantial numbers of American workers in the development, production, marketing and selling of these toys, games and dolls. Thus, while eliminating GSP for advanced developing countries does not abruptly shift investment to other, less developed beneficiaries, the impact of fewer imports takes its toll in domestic sales and employment.

For example, in 1981, the first year in which imports of doll clothing imported separately from Hong Kong, classified in item 737.21, TSUS, were ineligible for duty-free entry, Hong Kong imports totaled $11.6 million, 48 percent of the $24 million imported from all countries. In 1982, total imports declined by $3.3 million to $20.8 million, while Hong Kong imports increased to 50.9 percent of this total, declining by $1 million in absolute terms. The largest decrease in total imports from 1981 to 1982 was in duty-free GSP imports, which declined by $4.6 million. Thus, the imposition of a relatively substantial 12.8 percent duty has not resulted in a relative decline in doll clothing produced in Hong Kong, as compared to competitive clothing produced in other beneficiary developing countries.

S. 1718 would not only give the President the discretion to retain GSP benefits for particular products imported from advanced developing countries, but would also permit the President to waive competitive need limits altogether for those countries which he designates as least developed. With the knowledge that heavy investment in such countries will not be jeopardized by its very success in increasing export production American toy manufacturers would be encouraged to diversify their investments to include these least developed countries. Thus, S. 1718 avoids the "cut-off-your-nose-to-spite-your-face" problem which automatic competitive need limits have created and provides conditions under which significant investments will be directed toward the lesser developed of the beneficiary developing countries.

In considering the effects, real and potential of the GSP on investment decisions of American corporations, such as those in the toy industry, it is important to understand the relationship of those decisions to the developing countries. If the GSP were eliminated or curtailed, the imposition of the regular tariffs on these toy items would not offset the wage-rate advantage which the developing countries enjoy in the highly labor-intensive elements of manufacture. Indeed, if the duty-free entry of toy components pursuant to the GSP were terminated, the result would be in all likelihood that producers would move more and more of their operations overseas to low-wage countries, with a corresponding decrease in U.S. employment. Obviously, this result benefits no one.

S. 1718 does provide sufficiently for the protection of a truly endangered U.S. industry. Under its provisions, the President may lower the competitive need limits for countries which have demonstrated a strong degree of competitiveness as compared to other beneficiary developing countries where it is appropriate to do so. This would offer a sufficient measure of protection to domestic producers of like or directly competitive products while not abruptly curtailing sources of supply in those products. We would anticipate, of course, that these limits would not apply to products, such as toys, which do not compete with domestically produced items.

In a recent article in Toys, Hobbies & Crafts (December 1983, P. 43-46), entitled "The Threat to Duty-Free Toys", the question asked of the U.S. Congress is: "How appealing would a 15 percent price increase on nearly three-quarters of total toy product be to the industry?" And where would that 15 percent in added costs be absorbed? By the manufacturer? The retailer? The consumer?

One member of TMA sold $654.8 million worth of toys, games and dolls in fiscal 1982 while employing 6000 American workers.

If this company did not have the opportunity to import toys duty-free pursuant to the GSP, its costs would have increased by over $98 million in just that one year. If the prices of toys were raised to cover costs, sales would decrease; if sales decreased, or if the costs were absorbed internally, employment would be affected. Multiply that by 250 companies, and the picture is depressing.

This fact cannot be overemphasized. The toys and dolls which TMA's member companies source from overseas suppliers require labor-intensive assembly and decoration in the production process. These toys would not exist if foreign sources of supply were not available, given the price sensitivity of demand for these products. TMA is unaware of any company which currently produces high-volume products in commercially significant quantities in the United States. Thus, if GSP were eliminated, American toy manufacturers would have no alternative but to move more and more of the production operations offshore, in an attempt to reduce costs and thereby sustain demand.

We note that in estimating the effect of the reimposition of regular duties on doll's clothing, the ITC uses an adjustment factor of 2.3 to calculate the cost of the 12.8 percent duty thus finding a price increase to consumers of more than 29 percent, before sales and other taxes.

As the ITC concluded in its summary on Dolls And Stuffed Toy Animals, "There is . . . very little real growth expected in these industries in the near future." (At 9) An additional $0.29 on every dollar quickly adds up to a price which American consumers would find it hard to pay for articles of amusement. And when sales go down, naturally business contracts. "Very little real growth" means that many jobs are on the line.

The TMA understands that the objective of the GSP in the past has not been to keep prices down for American consumers nor to eliminate tariffs generally. But S. 1718 would give the President the discretion to take these interests into account and to determine that continuation of GSP duty-free eligibility is in America's best economic interest. If the U.S. Congress does not pass the GSP Renewal Act, the American toy industry will be forced to move more production offshore, with a corresponding decrease in U.S. employment. Jobs in California, New York, Illinois, Massachusetts, New Jersey, Ohio, not to mention retailers throughout the country who could face decreased sales, would be placed in serious jeopardy.

In conclusion, the TMA can assuredly speak from the experiences of its members in the highly competitive U.S. toy, game and doll industry, and all available evidence supports our view, that it is vitally important to us, our employees and the American consumer that the GSP be allowed to continue and that its benefits be extended to include all toys, games and dolls which are produced in the advanced developing countries. The substantial production, development, marketing and selling activities which the American toy industry conducts in the U.S. have all benefited from the fact that many of its imported products have been allowed to enter the United States free of duty pursuant to the GSP. We believe our experience is common to many industries producing highly priceelastic products in integrated multi-nation industries where U.S. and offshore operations have become complementary.

The original concept of GSP was that by facilitating trade with developing countries other forms of assistance would be minimized. While this concept remains valid, to it has been added another reason for GSP: the economic self-interest of the U.S. Our own industry's economic health and prosperity, as is the case for many similarly situated sectors, is now securely linked to such developing countries, and the success of the GSP program has been the success of our domestic industry. We believe the legislation before you recognizes this relationship and provides the President with the flexibility in the administration of the law which he needs to maximize the benefits of GSP to the U.S. economy.

## STATEMENT OF W. HENRY PARSONS, MANAGER OF CORPORATE CUSTOMS, GENERAL ELECTRIC CO., NEW YORK, N.Y.

Mr. PARSONS. Mr. Chairman, my name is Henry Parsons. I am the manager of customs for General Electric Co. I am here today in my capacity as chairman of the GSP Subcommittee of the American Association of Exporters and Importers, which has a membership of some 1,400 American firms engaged in both exporting and importing.

The association welcomes this opportunity to address the proposal to renew the U.S. GSP.

The GSP has helped the beneficiary countries become important customers, and has thus generated its own reciprocity. The existing GSP law should be renewed with some improvements; specifically, there should be continued flexibility and Presidential discretion in administering the competitive need limitations.

The de minimis rule should be increased from $1 million to $5 million, with escalation tied to the U.S. GSP. In case of all removals, reinstatement should be automatic if importation subsequently falls below the appropriate competitive need limitations.

The competitiveness of beneficiary country products should be judged against their competitiveness with like products from developed countries, not only those from lesser developed countries. Otherwise, the particular trade might move quickly to an industrialized country.

Mr. Chairman, a most important consideration in any view of GSP legislation should be to provide that U.S. inputs specifically U.S. materials, fabricated parts, as well as U.S. engineering, research, design, and development, should be counted in the 35 percent qualifier regardless of whether sold to or provided free to the BDC manufacturer.

This proposed change would be consistent with the longstanding position of the other GSP donor countries who recognize input from their own countries as includable in the local content qualifier for their generalized preference programs, and those countries include Japan, Canada, and others.

We promote this change, not because other countries embrace it but because it is the smart thing to do.

We are not proposing a mandatory U.S. content in any circumstances. In fact, we reject the concept of a mandatory U.S. content.

It would engender resentment, particularly from those able to exceed the 35 percent BDC minimum, but unable to substitute U.S. content for third-country input.

There should, however, be an incentive for voluntary use of U.S. materials. It is a fact that an eligible article which is 33⅓ percent by value from a BDC, 33⅓ percent by value from the United States, and 33⅓ percent by value from Japan would qualify for duty-free entry into Japan, but not into the United States. Substitute the 33⅓ percent U.S value for 33⅓ percent Canadian value, and that same article would qualify for duty-free entry into both Japan and Canada, but not into the United States.

Senator DANFORTH. Thank you, sir. Senator Heinz.

[The prepared statement of W. Henry Parsons follows:]

EX IM
American Association of
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**Importers** 11 West 42nd Street, New York, NY 10036 (212) 944-2230

# TESTIMONY

of

W. Henry Parsons

Mister Chairman, Members of the Committee,

My name is W. Henry Parsons. I am the Corporate Manager of Customs at General Electric Company. I am here in my capacity as Chairman of the GSP Committee of the American Association of Exporters and Importers (AAEI), to present the Association's testimony. I am accompanied by Frank Schattschneider, Esq., an attorney with J. C. Penney Company, Inc.: and Stephen Lande, Vice President of Manchester Associates, Ltd., both members of my committee; and by Mark Wainstock, the Association's Director of Research. I am not here to give testimony in behalf of General Electric Company.

AAEI is a nationwide, non-profit association, established in 1921, comprising some 1400 American firms and service organizations engaged in various and diverse exporting and importing operations. The Association is a recognized voice of the American international trade community, and welcomes the opportunity to present its views in support of the renewal and strengthening of this worthy endeavor, the United States Generalized System of Preferences (GSP). In particular, the Association will also detail its reaction to the general goals of the Administration, as set forth in the Administration's Proposal which is included in the record of the introduction of S.1718.

## Endorsement By American Exporters and Importers

Both American exporters and American importers see it as imperative that the U.S. Generalized System of Preferences be renewed, be liberalized, and enlarged to include more products. Perhaps no scheme in the annals of international trade, based on the unselfish motive of helping others, has brought a greater return to the donor than has this. And this despite its under-utilization, despite its restrictions, and despite its subjective administration.

That the scheme is under-utilized is manifest from the facts that duty-free imports of GSP-eligible articles from BDC's have typically accounted for only about 3% of total U.S. imports, that despite availability of duty-free entry for qualified eligible products from some 140 BDC's, over 70% of U.S. imports of those products are from the industrialized countries which are ineligible for GSP benefits. Significantly, less than 14% of GSP-eligible articles enter the U.S. duty-free.

In spite of all that, the GSP countries, as a group, purchase from the U.S. nearly 40% of total U.S. world-wide exports. Their GSP earnings have helped them do that--and today the healthiest segment of the U.S. trade balance is with the GSP beneficiary countries.

The GSP has helped American industry meet intense foreign competition, both at home in the U.S. and on world markets, by providing less-expensive parts and materials from the beneficiary countries for incorporating into U.S.-manufactured products. How many of those American products would have succumbed to competition from particular industrialized countries in the absence of GSP-benefiting inputs?

At a time of severe foreign exchange crises for heavily-indebted developing countries, their foreign exchange earnings from the GSP have helped avoid default, and all of its consequences for the world economic system! The GSP also reduces the need for direct economic aid to those countries.

All of these economic benefits to American industry, to American workers, and to American consumers are substantial, and have occurred without perceptive harm to industry or labor. A true balance sheet, however, would show the United States with a net gain from its GSP operations. How much greater would be the gain from a liberalized and expanded GSP?

The record shows little exposure of U.S. import-sensitive products to GSP competition. The fact is that import-sensitive products have not be-n designated for GSP benefits, and the existing annual review process has facilitated the prompt removal from eligibility of articles found to be import sensitive in the context of GSP. And further, most GSP products carry low duty rates, which have been reduced even more than average in the Multi-Lateral Trade Negotiations, of itself a strong indication that GSP-eligible products are not import sensitive.

The GSP has also brought the U.S. advantages on the geo-political and diplomatic fronts. The major beneficiaries are among our most important allies and friends, and we look, too, to the lesser beneficiaries building up their economies and their political institutions. Located as they are in prime strategic areas of the world, their friendship is invaluable. Trade relationships we have forged with them should prove lasting and durable and may yet serve the U.S. in many ways.

A strong U.S. Generalized System of Preferences will be a prime asset to the United States. Motivated by enlightened self-interest, the European Communities and Japan, as well as other industrialized nations, have already renewed their schemes and expanded their product coverage without curtailing their beneficiary lists. In particular, both the EC and Japan each renewed their schemes for fifteen-year terms. The international system of burden sharing represented by the various generalized preferential schemes of the donor nations is a vital part of an equitable system of international trading. The demise, or weakening, of those schemes could contribute to political and economic instability. Certainly the United States has not only an international responsibility to provide a non-reciprocal GSP program, but will itself be a major beneficiary therefrom.

I turn now to:

## The Association's Reaction to the General Goals of the Administration

### 1. The goal of limiting GSP treatment for highly competitive products

This goal can only be justified if it succeeds in transferring the particular trade to a lesser-developed country or countries. Adequate prior study and safeguards should be required to ensure the desired success. In particular, there should be provision for immediate restoration of the status quo where it is shown that the action has driven the trade to an industrialized country or countries.

## 2. Assuring U.S. exports greater market access in beneficiary countries

This is another way of seeking reciprocity or a "quid pro quo." It should be noted that one of the results of the Tokyo-round of GATT negotiations was agreement that the developed countries would not expect full reciprocity from developing countries.

We urge that great care be exercised in seeking greater market access from any particular country. For one thing, in some cases, the advocates of those conditions may simply be opponents of GSP who will regard such "conditioning" as an easy way to accomplish their protectionist purpose. Any requests for concessions must be consistent with the degree of economic development--and the resulting level of competitiveness in relation to the developed countries--that has been attained by the country and product sector in question. To ask for more would be inconsistent with the purpose of GSP--which is to help the BDC countries become competitive, rather than to ask them to compete before they can.

We believe, too, that it would be too early, and therefore counterproductive to press for greater market access in the case of an economically-strained country which still necessarily restricts imports so as to carefully channel its foreign exchange resources to priority purchases from the U.S. for the building of its infrastructure. If more open market access were to be achieved, it could result not in additional purchases from the U.S., but in different purchases, or, perhaps, in default.

Developing countries are our nation's most important export market. To cut back on the GSP privileges of such a country would restrict its ability to generate foreign exchange and force that country to cut back on its purchases from the U.S. In other words, increased export opportunities for the U.S. are a natural consequence of our GSP program. The program generates its own reciprocity.

3. Reallocating benefits to the less-developed beneficiary countries to the degree possible

This goal can only be achieved if the particular country or countries have, or can create, the infrastructure necessary to support the particular trade, which, in many cases, may be doubtful. Where this goal involves depriving more developed BDC's, adequate prior study and safeguards should be required to ensure the desired success. Here again, there should be provision for immediate reversal where it is shown that the action has driven the trade to an industrialized country or countries.

There may be opportunities in circumstances where long-term investment is necessary, but the proposed ten-year extension would probably be too short to attract investors. Otherwise this goal may only succeed with cottage industry products and the like. We believe, however, that, in spite of the difficulties, effort should be made to encourage lesser-developed countries (including the LDDC's) to take advantage of the U.S. GSP. Given the standard of development of some of these countries, creative individual internationally-sponsored projects may be the answer. Certainly their GSP benefits should be open-ended and without competitive need limits.

4. Conforming to U.S. international obligations under GATT

As American exporters and importers, we believe that the U.S. should conform to the GATT rules and insist that others do likewise. A weakening of the GATT should not be contemplated. The GATT must be strengthened and revitalized, and the U.S. can show the way. For this reason the desire for greater market access should be tempered by the knowledge that, largely, the BDC's are good customers and, given the opportunity to earn more foreign exchange, will become yet bigger customers of the U.S.

I turn now to:

## The Provisions of S.1718

The Association supports the proposed grant of authority to the President to waive the competitive need limitations. We believe that such discretionary authority is necessary to complement the President's existing authority to add and remove products from GSP eligibility. We do not, however, believe that the only consideration mandating "great weight" in granting such waivers should be a BDC's "assurances" of market access, as is proposed in Section 3 of the Administration's legislative proposal, and incorporated in Section 4 of S.1718. We believe that decisions to grant waivers must also give "great weight" to many economic and political factors, such as the need of BDC's to generate U.S. dollar earnings to pay for its imports, as well as overriding foreign policy considerations. A positive finding on any one of those considerations should also be sufficient to grant the waiver.

The PURPOSES of the Act as set forth in Section 1 are all relevant factors which should be taken into consideration in making decisions concerning waivers of the competitive need limitation, and other matters involving a BDC's participation in the GSP. We therefore strongly recommend that the Statement of PURPOSE section of this proposed legislation be incorporated either by reference, or in full, in the present Section 501 of the Trade Act of 1974.

While we strongly endorse the concept of discretionary authority to grant waivers of the competitive need limits, we oppose the Administration's proposal to reduce by one-half the competitive need limits which would apply to certain products of certain BDC's. The current competitive need limits have provided effective safeguards, and there is no need to reduce them.

Moreover, Section 4 of S.1718 provides that the competitive need limitations would be reduced upon a determination that a BDC "has demonstrated a sufficient degree of competitiveness (relative to other beneficiary developing countries) with respect to any eligible article." While it would be inappropriate to reduce the competitive need limits at all, it would be even more inappropriate to do so based solely on consideration of a BDC's competitiveness vis-a-vis other beneficiary countries. In any decision which affects a BDC's eligibility for GSP with respect to a given product, the United States must continue to take into account the beneficiary's overall competitiveness in the particular product, i.e., its competitiveness vis-a-vis the industrialized countries must also be taken into account. Therefore we respectfully suggest that the parenthetical language "relative to other beneficiary developing countries" be deleted.

A BDC's access to GSP for an eligible article should not be limited unless there is clear evidence that such action will accrue to the benefit of one or more of the lesser-developed BDC's, and that the overall interests of the United States would be served. To limit a BDC's GSP eligibility would be contrary to the Administration's stated understanding that developing countries are our fastest-growing markets, and that increased export earnings for such countries mean increased ability to buy our exports and to pay their foreign debts.

## The Association's Proposals

The Association also suggests that other factors be incorporated into the Bill, as follows:

With regard to the dollar value competitive need limitation, the Bill should treat such questions as to whether excessive increases in costs of raw materials have led to increased value of imports without actual increase in shipments to the United States; whether total imports from BDC's of a product are a significant part of total U.S. imports of that product; and whether diverse products in a basket classification may unjustly also be affected.

Also, there should be strong de minimus rule in the competitive need limitations. The present $1 million de minimus is too small and unrealistic, it should be increased to $5 million--with escalation tied to the U.S. GNP.

In calculating trade totals for possible competitive need removal, the Bill should require that only GSP duty-free qualifying trade be considered, not trade which includes that which fails to qualify and on which duty has been paid.

There should also be provision for the automatic redesignation of products removed for competitive need reasons where imports from the affected country fall in subsequent calendar years below 80% of the competitive need criteria, demonstrating that the product was not ready for graduation. The only permissible exception to such a requirement should be based on a clear showing that the trade had moved to an even less-developed beneficiary country.

Product coverage should be expanded by breaking potentially eligible products out of baskets which have lost, or are about to lose, GSP eligibility because of either competitive need criteria. Clear criteria should be established permitting, or mandating, such breakouts where justified on economic grounds.

There should also be flexible provisions for making adjustments to compensate for problems created solely by the expected adoption of the Harmonized System. Certainly there should be no weakening of the U.S. GSP, due to such a technical change.

## Annual Modification Announcements

A particular problem experienced by all with the annual modification announcements is the short lead time, causing an undue burden on American importers and BDC manufacturers. It is not good enough to receive notice of the exclusion of a product just two or three days (and last year just four working hours) before taking effect. The Bill should provide that annual modifications take effect on July 1 each year, and that three months' notice of withdrawal be mandatory.

## Escape Clause Actions

In the case of escape clause actions, AAEI proposes that products be removed from GSP eligibility only if there is a clear showing that duty-free GSP imports are part of the problem which has prompted the action.

## Duration of GSP Law

AAEI recommends that the Bill should be enacted for a period of twenty years, to stimulate GSP-induced capital investments.

## Modify Rules of Origin

And now, Mr. Chairman, I have left until last the most serious defect in the existing U.S. GSP law, and in this proposed legislation, specifically in the Rules of Origin. The Association believes that certain modifications in the U.S. GSP Rules of Origin are long overdue, and should be incorporated in this new legislation. The first and most important of these is a redefinition of the 35% local content qualifier. First and foremost, U.S. inputs, specifically, U.S. materials, fabricated parts, etc., as well as U.S.

engineering, research, design and development, should be counted in the 35% qualifier, regardless of whether sold to or provided free to the BDC manufacturer.

This proposed change would be consistent with the long-standing positions of the other GSP donor countries who recognize input from their own countries as includible in their local content qualifier for their generalized preference programs, viz., Japan, Canada, and others. We promote this change, not because other donor countries embrace it, but because it is the smart thing to do.

We are not proposing a mandatory U.S. content in any circumstances; in fact, we reject the concept of a mandatory U.S. content. It would engender resentment, particularly from those able to exceed the 35% BDC minimum content but unable to substitute U.S. for third country input. There should, however, be an incentive for the voluntary use of U.S. materials. It is a fact that an eligible article, which is 33.3% by value from a BDC, 33.3% by value from the U.S., and 33.3% by value from Japan, would qualify for duty-free entry into Japan, but not into the U.S. Substitute the 33.3% U.S. value with 33.3% Canadian value, and the same article would qualify for duty-free entry into both Japan and Canada. Many permutations of these examples could be cited, all of which prove conclusively that BDC manufacturers find an incentive in using non-U.S. material and a disincentive to using U.S. material. American exporters ask that this anomaly be corrected. American exporters want an opportunity to sell to manufacturers in the BDC's and to establish ongoing relationships which might well carry on long after the GSP has served its purpose and taken its place in history.

The REPORT TO THE CONGRESS ON RULES OF ORIGIN, transmitted last year by the U.S. Trade Representative pursuant to Section 305(c) of the Trade Agreements Act of 1979, which, among other things, described the GSP rules of origin of the other donor countries, and also the U.S. GSP rules of origin. Nowhere does the report mention that other GSP donor countries, including Japan and Canada,--without qualification--recognize content from their own countries as includable in the local BDC content qualifier. But here it is clearly stated in the GSP laws of Japan. Mr. Chairman, I have appended to my statement, as Exhibit A, a copy of the English language version of the portions of the Japanese law recognizing their own input as counting toward the local content qualifier.

The Association respectfully suggests that the present bill should contain an amendment to Section 503(b)(2) requiring the inclusion in the local content qualifier of all costs enumerated in Section 402(b)(1) of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979, if incurred in the United States, whether or not such item is a part of the appraised value. Such a provision would stimulate and encourage the use of American parts, materials, equipment and engineering.

Other necessary origin changes which should be included in the Bill are:

1) When two or more BDC's produce a product, there should be provisions for cumulative fulfillment of the 35% minimum local content qualifier, as there is in the Caribbean Initiative Legislation. Alternatively, there should be provision for qualification for duty-free entry when any one BDC in the chain exceeds the 35% local content qualifier.

2) The so-called double transformation requirement is presently administered subjectively. The same criteria as for country of origin marking for imported goods should be the basis for determining whether transformation has occurred.

Thank you, again, for this opportunity to present the Association's testimony. I shall be pleased to answer any questions.

Respectfully submitted,

EXHIBIT "A"

# JAPAN'S GENERALIZED SYSTEM of PREFERENCES

**Use of materials imported from Japan**

In application of the origin criteria, special treatment will be accorded, as follows, to the materials imported from Japan into a preference-receiving country and used there in the production of goods to be exported to Japan: ("Donor Country Content Rule")

(1) *In the case of the goods produced in a preference-receiving country only from materials imported from Japan, or those produced in a preference-receiving country only from materials wholly obtained in the preference-receiving country and materials imported from Japan, such goods will be regarded as being wholly obtained in that country.*

(2) *In the case of the goods produced in a preference-receiving country in which materials imported from Japan and materials other than those imported from Japan or wholly obtained in the preference-receiving country are used with or without materials wholly obtained in the preference-receiving country, the materials imported from Japan which are used in the production will be regarded as being wholly obtained in that preference-receiving country in determining the status of origin of such goods.*

However, with regard to the goods listed in Appendix VI, the special treatment will not be granted.

The Ministry of Foreign Affairs of Japan

## APPENDIX VI

### List of Products which are Manufactured by Use of Materials Imported from Japan but Excluded from Donor Country Content Rule

| CCCN heading | |
|---|---|
| 41.02-3 | Bovine cattle leather (including buffalo leather) and equine leather other than parchment-dressed, except leather falling within heading No. 41.06 or 41.08 |
| 41.03-2 | Sheep and lamb skin leather other than parchment-dressed, except leather falling within heading No. 41.06 or 41.08 |
| 41.04-2 | Goat and kid skin leather other than parchment-dressed, except leather falling within heading No. 41.06 or 41.08 |
| 41.05-2 | Other kinds of leather other than parchment-dressed, except leather falling within heading No. 41.06 or 41.08 |
| 41.08 | Patent leather and imitation patent leather; metallised leather |
| 42.02 | Travel goods (for example, trunks, suit-cases, hat-boxes, travelling-bags, rucksacks), shopping-bags, handbags, satchels, brief-cases, wallets, purses, toilet-cases, tool-cases, tobacco-pouches, sheaths, cases, boxes (for example, for arms, musical instruments, binoculars, jewellery, bottles, collars, foot-wear, brushes) and similar containers, of leather or of composition leather, of vulcanised fibre, of artificial plastic sheeting, of paperboard or of textile fabric |
| 43.02 | Furskins, tanned or dressed, including furskins assembled in plates, crosses and similar forms; pieces or cuttings of furskin, tanned or dressed, including heads, paws, tails and the like (not being fabricated) |
| 43.03 | Articles of furskin |
| ex chapter 46 | Goods of artificial plastic materials |
| section XI | Textiles and textile articles |
| 64.02 | Footwear with outer soles of leather or composition leather; footwear (other than footwear falling within heading No. 64.01) with outer soles of rubber or artificial plastic material |
| 65.01 | Hat-forms, hat bodies and hoods of felt, neither blocked to shape nor with made brims; plateaux and manchons (including slit manchons), of felt |
| 65.03 | Felt hats and other felt headgear, being headgear made from the felt hoods and plateaux falling within heading No. 65.01, whether or not lined or trimmed |
| 65.05 | Hats and other headgear (including hair nets), knitted or crocheted, or made up from lace, felt or other textile fabric in the piece (but not from strips), whether or not lined or trimmed |
| 70.20 | Glass fibre (including wool), yarns, fabrics, and articles made therefrom |
| 97.01 | Wheeled toys designed to be ridden by children (for example, toy bicycles and tricycles and pedal motor cars); dolls' prams and dolls' push chairs |
| 97.02 | Dolls |
| 97.03 | Other toys; working models of a kind used for recreational purposes |

Senator **HEINZ**. Mr. Chairman, although the panel has probably not had much of a chance to go over my legislation, we do provide with respect to countries that might otherwise graduate from the program that they may continue in the program if they become a country under the agreement or if they sign the Subsidies Code, the former being an alternative to the latter.

The purpose of that is to try and obtain from countries like Hong Kong, Taiwan, Brazil, and others more internationally acceptable norms of behavior in the trading area.

I would like to ask the witnesses whether they favor that concept, even though they might want to reserve the right to review the specifics of language. Who would like to start?

Mr. **THOMSON**. Senator Heinz, I certainly think that is logical. We don't export a great many toys and games from the United States.

Senator **HEINZ**. We lead the world in toys, probably one of the few things we really lead in.

Mr. **THOMSON**. We do, but we don't export a lot. That is our problem here in the United States, but anything that will——

Senator **HEINZ**. I want a lot of help for my kids, too.

Mr. **THOMSON**. We appreciate it, but anything that will give the United States some leverage to open up other areas certainly should be included in any legislation, in my opinion.

Senator **HEINZ**. Mr. Thomson, thank you. Mr. Brooks.

Mr. **BROOKS**. I would tend to agree that we have to use whatever reasonable methods there are without creating resentment on the other side to bring these countries into the norms, as you said. I think one of the important areas is protection of intellectual property, which I think has been addressed here before. I would also hope that your cares are helping our country, too, Senator.

Senator **HEINZ**. Mr. Parsons.

Mr. **PARSONS**. I think, yes, we support generally that goal. However, in the case of countries who have limited foreign exchange resources, if they impose certain restrictions on how these foreign exchange assets are used, and try to channel those funds into procuring from other countries such as the United States, capital equipment, so that they may build their infrastructure, we should be satisfied with that notwithstanding that they may, on the other hand, restrict importations into their country of consumer goods and luxury goods.

I think that, so long as they come right back and spend the dollars which they have earned here, I think that should satisfy us.

Senator **HEINZ**. Thank you.

Senator **DANFORTH**. Gentlemen, do you think that the GSP is an incentive for U.S. firms to just locate offshore?

Mr. **BROOKS**. Senator, I don't think so. The levels of prevailing duty on the products that are covered by GSP are so low that I don't think that that's the major decision. The major decision has to do with labor rates, and it is a question of where, rather than whether you are going to locate an offshore plant. The other problem with respect to it is that in many cases, by creating—if we provide for the utilization of American components—we enable American companies to remain competitive even using such U.S. made components and therefore assist domestic employment.

Mr. THOMSON. Senator, in the case of the toy and game industry, I don't think there is any incentive at all to go over with the degree of GSP and tariff relief there is. Every time there is an increase in social security, an increase in minimum wage, an increase in some other general cost of business, including labor agreements, it just simply suggests to another company that they ought to begin to coordinate their activity and their production so that they go overseas. The GSP is not the critical factor in my opinion.

Mr. PARSONS. To the extent that the GSP helps the Third World countries to become economically more viable, I think it is inevitable that major American companies who are looking for expansion overseas and to secure markets in other countries, the developing countries must over the long term be considered prime targets.

Senator DANFORTH. Gentlemen, thank you very much. The next panel—Mr. Tussey, Mr. Russell, and Mr. Hammer.

## STATEMENT OF W. GLENN TUSSEY, NATIONAL AFFAIRS DIVISION, AMERICAN FARM BUREAU FEDERATION, WASHINGTON, D.C.

Mr. TUSSEY. Mr. Chairman, we appreciate this opportunity to offer comments on renewal of GSP legislation.

I will briefly summarize the points that we have made in our paper, which are as follows. We believe that export agriculture in most countries—contrary to what most people believe—has sufficient advantage in technology and Government support and labor costs to compete effectively in the U.S. market without GSP treatment. I know that frequently many people feel that agriculture in developing countries is quite backward, but that is not true of the export agriculture in those countries. They have American technology, they have cost advantage, climate advantage, and frequently they have American capital.

We believe that there are some cases where flight of American capital has occurred to countries to produce fruits and vegetables and other horticulture products which come into this country to compete with the farmers here.

Many of the countries enjoy GSP status, as you will hear from other testimony this morning, and use export subsidies to go after markets in various parts of the world. Most developing countries, as the case is, have not liberalized their trade restrictions as they have become more affluent, so we feel that GSP has not been very effective in bringing about liberalization of trade in other countries, and we believe that we should receive counterconcessions when we give trade concessions.

Therefore, we believe that we should have exemptions for agriculture products, especially perishable commodities which can be hard hit by products from the developing countries. Agricultural products, especially horticultural products, are more import sensitive than textiles or footwear or watches and certain electronic and steel articles that have been excluded from GSP.

For these reasons, we will seek exemption for agricultural commodities.

Senator DANFORTH. All right. Mr. Russell.

[The prepared statement of W. Glenn Tussey follows:]

# STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION BEFORE THE SENATE SUBCOMMITTEE ON INTERNATIONAL TRADE OF THE COMMITTEE ON FINANCE REGARDING THE ADMINISTRATION'S PROPOSAL TO RENEW THE GENERALIZED SYSTEM OF PREFERENCES (GSP)

January 27, 1984

Farm Bureau appreciates this opportunity to comment on the Administration's proposal to renew GSP legislation (S. 1718).

At Farm Bureau's Annual Convention earlier this month, the following policy with respect to GSP was ratified by the voting delegates:

> "The United States should approve most-favored-nation (MFN) tariff treatment for any countries that agree to reciprocate and conduct themselves in accordance with the General Agreement on Tariffs and Trade.
>
> "We oppose the Generalized System of Preferences (GSP) for agricultural products, whereby developing countries are granted duty-free entry on certain products, as this runs counter to the MFN principles."

Mr. Chairman, based on this policy guidance, Farm Bureau will be supporting legislation which will exclude agricultural commodities and products from eligibility for preferential duty-free status under GSP.

The Generalized System of Preferences which grants duty-free treatment to developing countries was opposed by the Farm Bureau prior to enactment of the Trade Act of 1974 even though our organization supported the other provisions.

Our general opposition to the granting of duty-free treatment of imported articles, products and commodities continues. We believe that tariff concessions should be granted only in the negotiation process where concessions are received as well as granted. Farm Bureau believes that the idea of a Generalized System of Preferences is inconsistent with the most-favored-nation principle, the foundation of the General Agreement on Tariffs and Trade (GATT).

We believe that the legislative intent when the Trade Act of 1974 was enacted was to focus tariff preferences on manufactured rather than agricultural products and that developing countries did not generally need assistance in the marketing of agricultural commodities in the United States. The agricultural commodities and products produced in developing countries for export to the United States generally come from farms that utilize modern production technology, are highly competitive and often financed by U.S. capital. Consequently, Farm Bureau believes that they should be accorded only the tariff treatment granted most-favored nations. Duty-free preferences create serious problems for domestic agricultural producers.

Farm Bureau finds that the benefits that could accrue from the MFN principle are diminished when special benefits permit duty-free entry of agricultural commodities from many developing countries without counter concessions. Most of the developing countries have not liberalized their trade restrictions as their economies have become more affluent.

Many of the developing countries that enjoy GSP treatment on agricultural products entered into the United States have recently erected substantial tariff and other trade impediments against United States' agricultural imports. Included are such well-known trading partners as Taiwan, Thailand, Korea, Malaysia, The Philippines, Nigeria, Egypt, The Dominican Republic, Mexico, Brazil, and Argentina.

Farm Bureau is concerned regarding the escalation in the number of agricultural products for which GSP status has been granted through the years. We believe that this is a serious departure from Congressional intent.

Farm Bureau, other farm organizations and commodity groups, along with the U.S. Congress, are frustrated by our trading partners' continued use of export subsidies. Many of the developing countries that enjoy GSP benefits on agricultural products use export subsidies to "capture" markets away from U.S. farmers.

We understand the Administration proposes that the renewed GSP Program be structured to limit GSP treatment of highly competitive products and to assure U.S. exports greater market access in GSP beneficiary countries. Although we agree that such factors should be taken into account when the GSP legislation is renewed, we also believe more firmly that agricultural production in developing countries for export to the United States has sufficient advantage in technology, government support and labor cost, to enable them to effectively compete in the United States without the special benefits currently accorded under GSP.

To grant additional benefits beyond that accorded countries receiving MFN treatment is unnecessary for these countries to be competitive in the U.S. market. Furthermore, it results in flight of U.S. capital to such areas for the production of agricultural items for importation into the United States and a consequent loss of jobs by U.S. workers and lost income for U.S. growers.

We believe that agricultural products, especially perishable ones, are more sensitive than textiles, footwear, watches and certain electronic and steel articles which have been excluded from duty-free treatment by Section 503(c)(1) of the Trade Act.

Therefore, Farm Bureau will suppport legislative reforms which would exclude agricultural products from the GSP Program.

Farm Bureau will appreciate the consideration of our view as GSP renewal legislation is being considered.

## STATEMENT OF RANDY M. RUSSELL, MEMBER SERVICES AND FARM PROGRAMS, NATIONAL COUNCIL OF FARMER COOPERATIVES, WASHINGTON, D.C.

Mr. **Russell**. Thank you, Mr. Chairman. I appreciate the opportunity to testify this morning. The National Council supports H.R. 3581, which was introduced by Congressman Bill Thomas in the House, which exempts agricultural products and byproducts from eligibility under GSP. Mr. Chairman, the council supports H.R. 3581 for a number of reasons, but I would like to focus on one this morning.

Many of the beneficiary developing countries under GSP are limiting or prohibiting imports of U.S. agricultural products. The major GSP beneficiary countries are often those who pursue protectionist policies towards U.S. agricultural commodities. The use of nontariff trade barriers and export subsidies have become so pervasive among eligible GSP countries that U.S. producers have been limited or all together excluded from traditional markets.

In my testimony that will be included in the record, there are a number of countries that I have listed in there, and some of the practices that they follow. But I would like to focus just for a second on Taiwan, which is the major recipient of GSP benefits. They continue to heavily subsidize rice exports in the third-country markets which directly compete with U.S produced-rice. In 1983, Taiwan's rice exports reached 850,000 metric tons, up from 29,000 metric tons in 1981, and they have been able to achieve this, Mr. Chairman, by using an export subsidy equivalent to about $400 a ton. Mr. Chairman, the U.S. producers in the case of GSP are not asking for similar types of programs. However, they do request that preferential access for agricultural products coming into the United States not be permitted when other developing countries do not allow it, and when developing countries are preventing U.S. products from flowing into their markets.

In conclusion, I would just like to end by saying that unilaterally granting duty-free access to countries who continue to use unfair trade practices, both domestically and in third country markets, only encourages those countries to continue their unfair trade practices. A continuation of these practices, Mr. Chairman, will lead to further declines in U.S. agricultural exports and producer income.

For these reasons, it is important that the agricultural products and byproducts be excluded from eligibility for duty-free status under the generalized system of preferences. Thank you.

Senator **Danforth**. Mr. Hammer.

[The prepared statement of Randy M. Russell follows:]

**National Council of Farmer Cooperatives**
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TESTIMONY OF

RANDY M. RUSSELL
VICE PRESIDENT, AGRICULTURE AND TRADE POLICY
NATIONAL COUNCIL OF FARMER COOPERATIVES
BEFORE THE
SENATE FINANCE COMMITTEE
SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. Chairman, my name is Randy Russell and I am Vice President of Agriculture and Trade Policy for the National Council of Farmer Cooperatives. The National Council is an association of cooperative businesses which are owned and controlled by farmers. Our membership consists of regional marketing and farm supply cooperatives, the banks of the cooperative Farm Credit System, and state councils of farmer cooperatives. The National Council represents about 90 percent of the more than 6,400 local farmer cooperatives in the nation, with a combined membership of nearly 2 million farmers.

I appreciate the opportunity to testify this morning regarding the reauthorization of the Generalized System of Preferences. As you know, Mr. Chairman, the GSP, which allows for duty-free imports into the United States from designated developing countries, is authorized under Title V of the Trade Act of 1974. The authority for the GSP program is for 10 years ending January 3, 1985. Duty-free imports under the program have grown from $3.2 billion in 1976 to $8.4 billion in 1982. Specifically, duty-free agricultural imports under GSP increased from $550 million in 1976 to $1.25 billion in 1981.

The National Council strongly supports H.R. 3581, introduced by Congressman William Thomas, which exempts agricultural products and by-products from eligibility under GSP. The Council supports H.R. 3581 for three basic reasons:

(1) The original intent of the authorizing legislation was to include agricultural items under GSP in only special circumstances. However, in recent years a majority of the items added to the GSP list have been agricultural products.

(2) Many of the beneficiary developing countries under GSP are limiting or prohibiting imports of U.S. agricultural products.

(3) The product requests made by developing countries have increasingly burdened U.S. agriculture at a time when agricultural exports are declining and net farm income remains at levels only previously experienced in the 1930's.

*"AMERICA'S FARMER OWNED BUSINESSES"*

I would like to spend a few minutes reviewing each of these points in more detail.

## GSP Not Targeted for Agricultural Products

Congress originally enacted the GSP program in order to help beneficiary developing countries increase their exports, diversify their economies and reduce their dependence on foreign aid. President Nixon's April 10, 1973 Message to Congress proposing Trade Reform Legislation stated that "this legislation would allow duty-free treatment for a broad range of manufactured and semi-manufactured products and for a selected list of agricultural and primary products which are now regulated by tariffs." The thrust of the program was clearly in the area of manufactured products. It's intentions were to encourage developing countries to establish industrial complexes that would help build their economies. In most cases, developing countries have well established agricultural sectors and it is clearly unnecessary to provide them preferential treatment through the GSP.

However, the operation of the GSP program has contrasted sharply with the congressional intentions for it. In his five year report to Congress in 1980, President Carter indicated that a total of 82 items had been added to the list of eligible products by March 1, 1979. Forty-four of those items, or 54 percent, were agricultural products. In 1981, 52 percent of the items added to the GSP list were agricultural products, while in 1982, 34 percent of the new items were agricultural products. In the product additions announced last April, 12 of the 26 products, or 46 percent, were agricultural items.

## Unfair Trade Practices of GSP Countries

The major GSP beneficiary countries are often those who pursue protectionist policies towards U.S. agricultural commodities. The use of non-tariff trade barriers and export subsidies have become so pervasive among eligible GSP countries that U.S. producers have been limited or altogether excluded from traditional markets. Examples of this are readily available:

Taiwan -- Continues to heavily subsidize rice exports into third country markets which directly compete with U.S. produced rice. In 1983, Taiwan's rice exports reached 850,000 metric tons, compared to 307,000 tons in 1982 and 29,000 tons in 1981. This dramatic increase in rice exports has been directly related to their export subsidy program, where subsidies can reach as much as $400/ton. The estimated U.S. export value loss due to Taiwan's rice export subsidy program is over $300 million.

In addition, Taiwan imposes a 35 percent duty on U.S. turkeys, a 65% duty on dried eggs and recently moved to double duties on frozen orange concentrate.

Korea -- Imposes a burdensome administrative licensing system in an effort to limit imports of U.S. almonds. In addition, the duty on imported almonds was increased from 40% ad valorem in 1982 to 50% ad valorem in 1983.

Brazil -- Continues to heavily subsidize both poultry and soy product exports. In 1964, the U.S. share of the Middle East whole chicken market was 44 percent. By 1982, the U.S. share fell to less than .5%. This dramatic decline in the U.S. market share is directly linked to the direct and indirect subsidies provided to the Brazilian poultry industry. USDA estimates that total subsidies to the Brazilian poultry industry were $125/metric ton in 1982.

In the case of soy products a similar situation has occurred. In 1974, the U.S. supplied 78% of the world soybean meal market, with Brazil supplying the remaining 22%. By 1981, the U.S. share had fallen to 39%, while Brazil's share increased to 55%.

In soybean oil, Brazil was not a supplier in 1973-74, while the U.S. supplied 64% of the world market. By 1981, Brazil had jumped to 45% of the world soybean oil market, while the U.S. share fell to just 24%.

Brazil has employed a complex system of tax incentives, subsidized financing, price controls, quotas, export rebates, and income tax controls to build an industry that now dominates the world soybean oil and meal markets.

Argentina -- In order to stimulate exports, the Government of Argentina has instituted a system of direct and indirect taxes which are rebated to exporters. Concentrated apple juice, soy products, prunes, and grape juice are some of the major products which have benefited from the subsidy program. In addition, long-term interest-free loans and liberal pre-export financing has allowed Argentine exporters to move many of these products into third country markets and compete unfairly with U.S. products.

U.S. farmers are not asking for similar programs, however they do request that preferential access for agricultural products coming into the U.S. not be permitted when other developing countries do not allow it and when developing countries are preventing U.S. access to their markets.

## Depressed U.S. Agricultural Economy

The agricultural sector has faced low farm prices, rising costs of production and low net farm income for the past three years. Net farm income declined from $30.1 billion in 1981 to $23 billion in 1983.

A major reason for the low net farm income over the last three years has been the dramatic decline in U.S. agricultural exports. The gross value of U.S. agricultural exports in 1983 was $34.5 billion, a decline of almost $5 billion from the 1982 level and $9 billion below the 1981 level. In addition, the volume of U.S. agricultural exports declined in 1983 from 162 m.m.t. to 145 m.m.t. A number of important factors led to this dramatic change in the export situation.

Increased Foreign Production -- Since the 1981/82 marketing year total grain production outside of the U.S. (course grains, wheat and rice) has increased over 100 m.m.t. The major increase in foreign production over this two year period took place in wheat, increasing 45 m.m.t.

Worldwide Recession -- The depressed world economy has dampened growth in the demand for agricultural products, particularly in the high and middle income countries. As an example, during the 1970's the developed countries experienced a real economic growth rate of 4.5%, compared to just .6% in 1982 and 2.1% in 1983.

Exchange Rate Effects -- Over the past two years, the value of the dollar against other major currencies has increased by roughly 20 percent. It is estimated that these increases have caused a loss in exports valued at $6.7 billion.

Financial/Credit Difficulties -- Many of the countries currently experiencing creditworthiness problems represent some of our most important customers. For example, entering 1984 Mexico and Brazil are each facing foreign debts totaling $90 billion, while Poland faces debts of $30 billion and Venezula a $20 billion foreign debt.

Competitors Use of Export Subsidies -- Aggressive use of agricultural export subsidies by the European Community and Brazil, have led both to become major contenders for world markets. In the case of Brazil and the EC, export subsidies are used to dispose of surplus stocks generated by high internal support prices.

USDA estimates that this dramatic decline in both the value and volume of U.S. agricultural exports has been the overriding factor in the decline of net farm income over the last three years.

Mr. Chairman, unilaterally granting duty-free access to countries who continue to use unfair trade practices both domestically and in third country markets only encourages these countries to continue their unfair practices. A continuation of these practices will lead to further declines in U.S. agricultural exports and producer income.

Mr. Chairman, for the foregoing reasons, it is important that agricultural products and by-products be excluded from eligibility for duty-free status under the Generalized System of Preferences.

## STATEMENT OF THOMAS A. HAMMER, HERON, BURCHETTE, RUCKERT & ROTHWELL, WASHINGTON, D.C.

Mr. HAMMER. Mr. Chairman, thank you. I will summarize my remarks briefly. In general, the feelings of the people I represent here this morning, who are producers primarily of horticultural and specialty crops, are in concurrence with the statements that have been given by the National Council of Farmer Cooperatives and American Farm Bureau Federation.

I think the opposition of the agricultural community to the GSP program is neither new nor is it surprising in my opinion. This was the same position that was being espoused by the agricultural community when the GSP was first contemplated by the Congress in 1974.

Generally speaking, that was for several reasons. At that time, the agricultural community, which is an export oriented community, was chagrined at the fact that we would be giving away trading stock to the developing countries for which we were seeking elimination of extremely high tariff and nontariff barriers. It seemed to us to be sort of a one hand tied behind our back negotiating strategy. We were also opposed to any status that was in deviation from the most-favored-nation principle, which is espoused as one of the pillars of the GATT.

Further, we know that many of the people that we have been competing with for world markets in fact, even here in our own domestic markets, are already extremely competitive with us. They have labor rates, climate, lack of regulations and cost deregulations in some cases that make them formidable competitors here and abroad.

We found that we were not alone in our opposition. I can relate one story to you: I have been making this statement for, I think, for probably 10 years now in our quest to try to tackle GSP problems for these clients, and I was on one such occasion approached by a member of the developing countries community, and he said that he had been on the early task force of the UNCTAD Committee, which came up with the idea of the generalized system of preferences. At that forum, I had been stating that it was the congressional language that was put forward and President Nixon's message that said GSP would be used almost exclusively for semimanufactured and manufactured products and only on a very select basis for agriculture.

He agreed with me. He said that is true. It wasn't your Congress that came up with that idea. It was, in fact, the UNCTAD Committee, because we realized that we were already highly productive and, in most cases, competitive in the agricultural area, and what we were looking for was a program that would bring us up by the bootstraps so that we could compete in the industrialized sectors of the world. Well, for those reasons and others that are summarized here and also contained in our comments that I will submit, we are seeking an exclusion at this time for the next 10 years from the GSP program.

Senator DANFORTH. Gentlemen, thank you very much.

[The prepared statement of Thomas A. Hammer follows:]

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## HEARINGS ON THE GENERALIZED SYSTEM OF PREFERENCES

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## TESTIMONY BEFORE THE INTERNATIONAL TRADE SUBCOMMITTEE OF THE SENATE FINANCE COMMITTEE

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Good morning, Mr. Chairman and members of the Subcommittee. I am Thomas A. Hammer, Government Relations Advisor with the law firm of Heron, Burchette, Ruckert & Rothwell. It is a pleasure to be here with you this morning. I appreciate this opportunity to discuss with you the Generalized System of Preferences (GSP) as it relates to U.S. agriculture. My testimony this morning is on behalf of Sunkist Growers, Inc., Sun-Diamond Growers of California, the California Almond Growers Exchange, The California Raisin Advisory Board, the California Prune Advisory Board, the Poultry and Egg Institute, Tri-Valley Growers of California, and the California Dried Fig Advisory Board.

Mr. Chairman, as this Committee and Congress reviews the GSP program, it is important that the program's impact on both U.S. agriculture and the economic development of beneficiary countries be carefully evaluated. In both respects, we believe that the GSP has strayed from the course Congress originally intended it to follow and has failed to acheive its intended goals.

The international bodies that first developed the GSP concept, the United Nations General Assembly and the United Nations Conference on Trade and Development (UNCTAD), recognized that developing countries' dependence on exports of primary products was deterring their trade growth. They realized that the economies of such nations were at the mercy of erratic world market price fluctations for these exports and, in the case of agricultural products, adverse weather conditions. It was thought that any further development of the agricultural sectors of developing nations would ultimately impede economic development by prolonging this dependence and by diverting financing and other inputs from the manufacturing and industrial sectors. The U.N. and UNCTAD believed, moreover, that increased production of export oriented agricultural products could result in a shortfall of basic market basket commodities, requiring additional expensive imports. It should be noted that President Carter's 1980 report on the GSP could not cite any benefits gained by developing countries from duty free status for agricultural imports.

Another factor recognized by the U.N. and UNCTAD was that many developing countries were already competitive with developed countries in producing and marketing agricultural products efficiently. It was believed that this was particularly true for specialty crops, such as fruits, vegetables, and nuts. Advantages in labor costs for these and many other agricultural products requiring intensive cultivation ensured competitive access to U.S. and other developed country markets.

It was for all these reasons that President Nixon, in his message to Congress accompanying the first proposed GSP package, indicated that manufactured and semi-manufactured products were to be the principal beneficiaries of any GSP program. H.R. 6767, 93rd Cong. 1st Sess., Part 1 of 15, at 116 (1973). The legislative history of the Trade Act of 1974 shows that the drafters also adopted the U.N. and UNCTAD rationale. They sought to avoid the wholesale inclusion of primary products under the GSP, recognizing that developing countries generally did not need assistance in marketing traditional agricultural commodities in the United States and that assistance to the agricultural sectors of these economies might ultimately hurt their economic development.

In practice, the GSP program has unfortunately abandoned the principles articulated by the U.N., UNCTAD, and the U.S. Congress by making an ever-increasing number of agricultural products eligible for duty-free treatment under the GSP. In 1975, when the GSP was initiated, approximately 300 out of 2,700 products were agricultural products. Since then, the percentage increase in eligible agricultural products has been almost five times the increase for industrial products. Over 42% of the products added to the GSP list since 1980 have been agricultural. The inclusion of agricultural goods to this degree is a serious departure from the intended emphasis of the program.

Other developed countries have recognized that preferential status for agricultural products does not help to diversify the economies of developing countries. The European Economic Community grants duty-free status to few agricultural commodities. Instead, only a small reduction in the duty is usually offered. In fact, some countries eligible for GSP status in the United States are not granted comparable status for any products by the Community. The number of agricultural products eligible for preferential tariff treatment is also limited by Japan.

Mr. Chairman, we are not here today to advocate protectionism. The agricultural producers represented here today are committed to world-wide trade liberalization. They have long been in the forefront of U.S. export efforts and have proven themselves capable of competing in foreign markets. What we are seeking here -- a denial of GSP eligibility for agricultural imports -- would simply mean that Most Favored Nation (MFN) duty rates would be applied to these items. Assessing the MFN duty can hardly be labeled protectionism. These imports would be fairly treated and would not be at a competitive disadvantage to similar imports from non-eligible countries.

It must be remembered that in many cases GSP eligibility is itself inconsistent with the principles that the United States has pursued internationally for many years. The program provides trade benefits to countries that have either closed their markets to exports of U.S. agricultural products or have unfairly promoted their own agricultural exports through subsidies and other unfair trade practices. By awarding these import benefits to countries that penalize our exports, we encourage the type of unlawful trade policies that we have long worked to eradicate around the world.

While the denial of GSP eligibility to agricultural products will not adversely affect agricultural exports from GSP beneficiary countries, it will give a needed boost to the American farmer. Our farm community is faced with countless tariff and non-tariff trade barriers, especially those in GSP eligible countries. We are faced, too, with the overvaluation of the dollar, high domestic interest rates and any number of other problems. Given these hardships, we should not ask U.S. agriculture to share its home market with over $700 million worth of yearly imports, particularly imports from countries that may benefit from the same unfair trade practices that make U.S. sales abroad difficult. If U.S. agricultural sales abroad are being stymied, then at least let us help the American farmer maintain his domestic markets through fair competition with imported agricultural products.

In short, the denial of GSP eligibility for agricultural products would put a stop to a policy that imposes serious competitive hardships on U.S. growers. Agricultural items were never intended to be given duty-free status in other than a highly selective manner. The experience of the developing countries demonstrates that duty-free treatment for agricultural products does not enhance their economic development. The end result is that nobody benefits from the program while the American farmer is harmed.

For these reasons, we ask this Committee and Congress to exclude agricultural products from GSP eligibility in the event that the program is renewed.

Thank you for this opportunity to appear before you. I would be happy to answer any questions you may have.

Respectively Submitted,

Thomas A. Hammer

Thomas A. Hammer
Government Relations Advisor

Senator **Danforth**. Let me just set out the other side of it and ask if you will comment. When I go home and talk to farmers, they are very interested in trade. Oftentimes, they are complaining about imports of something or other, and the position I take with them is that under the best of all worlds, I guess it would be a good thing if our farmers could export anything they wanted to export, and we would import nothing. But that is not a realistic proposition, and in the real world you have to have some imports and some exports. They generally understand that, and they understand that agriculture is particularly dependent on exports.

We export $14 billion of agricultural products to GSP recipients—$14 billion to GSP recipients—and we import $720 million under the GSP. That $720 million is 8.6 percent of all we import under the GSP. So, it is a small fraction of the total GSP program, and it is a much smaller fraction of the amount that we export to these same countries. So, the argument would be that, if we are going to export to these countries, they have to have some means of exchange to pay for the product, and that you have to give them some opportunity to produce something themselves.

It is true that there are some specific components of agriculture that are affected particularly by GSP. Of the $720 million of GSP agricultural imports, 40 percent of that is sugar, although most of that is covered by other import restrictions. Still people from sugar producting States may think that's terrible. But if you are from a Midwestern State that doesn't produce sugar, then 40 percent of that $720 million doesn't apply to them at all.

Horticultural products accounts for $150 million, so particle products and sugar would be a very substantial part of the total package, but I think the case could be made that this is a small price—again, in the best of all worlds, I guess we would be importing zero agricultural products, but in the real world—this is a very small price to pay for developing some means of exchange or some hope for these countries. Now, maybe we are covering countries that shouldn't be covered in the GSP.

I just got back from a trip to Africa. In traveling in that continent, you wonder just what is the hope for these people. What are they going to do? And then you see a few areas where they could have a little agricultural development—maybe in Somalia or some country—and maybe they could do a little irrigating and produce some vegetables or something that they could export and make some money. Then, they could buy some food to feed their people.

It seems to me that encouraging that kind of a program would be to the advantage of our own country and to our own exporters, and the premier exporter is American agriculture. So, wherein have I missed the boat?

Mr. **Russell**. Mr. Chairman, if I could, I would just like to make a couple of comments relative to that.

First of all, I think that we have to admit that a number of the GSP countries are very important to us in terms of key markets. Both Taiwan and Korea rank in the top 10 in terms of our agricultural product exports. Mexico also is very high on the list.

I think one thing that we have to focus on though is whether we should be unilaterally granting this duty-free status to countries that continue to use unfair trade practices, many of which are aimed at our agricultural products. In the testimony that I have submitted for the record, there is a number of cases cited looking at Taiwan, Korea, Mexico, and Brazil, where they continue to use tariff and nontariff trade barriers and continue to use export subsidies in third country markets, which directly compete with our agricultural products. So, I think one thing this committee might want to take a look at is certainly whether this type of status should be given to countries that continue to unilaterally put these types of tariffs and duties on our products, which do directly affect our agricultural exports and the incomes which our producers face.

Senator **Danforth**. OK.

Mr. **Tussey**. I think no one can really argue that it is not important to have economic development. I think about 30 percent of our exports go to developing countries, and Farm Bureau has long taken a free trade stance, and we have supported measures for economic development, most recently we supported increased funding for the IMF.

I think where we have a problem, of course, even though we want trade to flow in the area of products, such as horticultural products and sugar, which you mentioned. The problem is in the area of fairness. I have used the argument, too, that we sell a lot of soybeans, we sell a lot of corn, but those arguments don't sell very well with the California grower of fruits and vegetables who feels that some of his counterparts may be in a developing country with American capital and have very efficient production, just as efficient as his, and then he sees them get an advantage through GSP, marketing those products in competition with him back home here in this market.

So, we are not asking to keep the products out. We are just saying that they don't need this special advantage.

Mr. **Hammer**. Mr. Chairman, not to disagree with your figures—because I think they are accurate—but if you look at the countries that we are constantly battling with respect to requesting GSP benefits, they are not the countries that you mentioned. They are the countries that we were already trying to seek access to: Mexico—where we can hardly get a horticultural product into their country, and we take many-fold horticultural products—Israel, Chile, and Turkey. Many of those countries are already exceptionally competitive with us, and we are meeting them head-on in markets all around the world.

Just as an example, I remember a petition that we were looking at in trying to keep Turkish figs off the list was Turkish figs. I think Turkish fig growers are the oldest since before Biblical times. We import about half of our fig needs in this country. The industry is in very difficult shape, and Turkey exports about half of their fig crop.

However, we found that they were granted the duty for that particular item. It is a problem that we have and there is a notion behind this that they are not productive, and that somehow without these tariff benefits they wouldn't be exporting them into our market. And I can assure you, in many cases, that is not true. They have the firepower to come into our market, and if they come in at duties that are equivalent for all the other countries in the world, we have no problem with that.

Senator **Danforth**. Thank you very much. Some of these countries are in deep economic trouble, and some aren't. Some are strong, but some of them are in deep economic trouble, and IMF says, to them: You have got to shape up, and you have got to import less and export more and get yourselves in better shape for the sake of the world economy. And we really are interdependent. You have to have something going for you. I don't know how hard agriculture wants to push this particular issue, but it seems to me that the health of agriculture—which is so dependent on exports and international markets—is also dependent on the strong world economy.

The purpose of GSP is to try to help make a stronger world economy. Maybe it is not successful. I don't know. That is the question I put to Mr. Eckes, and who knows? But the intent of it is to try and develop some strength somewhere else so that we have some trading partners when we have something to sell.

I would think that agriculture really would be in the forefront of pushing things that would help countries that buy agricultural products from us, and if you do that, it is not going to be a 100-percent victory. You are not going to have a situation where we never import anything.

From the standpoint of my own constituents—not being a horticulture-producing State—I don't know. I don't think that that is a big deal, in Missouri, but I would think my own constituents—the Missouri Farm Bureau—I don't know if they have taken a position on this, but I would think that the GSP is probably something that is as beneficial to them as to any group in our country.

But that is a difference of opinion, I guess. Senator Heinz.

Senator **Heinz**. Mr. Chairman, thank you. Mr. Chairman, first I would like to say that I agree with a lot of your questions and comments. The general argument for excluding a category of commodity from GSP—and if you look at the list, I think it is self-evident—is that there is an enormously high labor content in the like article produced in the United States, and that that labor content—because it is so high—makes us noncompetitive because in these less developed countries, the wage rates are so low. Pennies an hour as opposed to dollars an hour. Now, maybe agriculture is changing in a way I don't understand, but my understanding of agriculture today is that it is primarily a capital intensive industry, as opposed to labor intensive.

Maybe I am wrong. Is there an assertion here that the total cost of production in agriculture is now—including the capital costs—on a par with apparel and garments?

Mr. **Tussey**. Senator Heinz, it depends on the commodity under question. It is true that in the growing of wheat, it requires many fewer manhours than was the case some years ago. But coming back to the fruits and vegetables, which we were talking about here, a lot of those require hand picking, hand harvesting.

Senator **Heinz**. I know all that.

Mr. **Tussey**. Then, you must know that it requires for horticultural crops a great deal of hand labor in the operation—in the picking and the packing of it. It is not like the production of wheat or corn.

Senator HEINZ. If you go out, as many people have, to California in the last 10 or 20 years—where I also used to live—many of the people in those horticultural crop areas find that their major cost is in purchasing the land. Their next major cost is in planting and cultivating and irrigating. Their next major cost is to fertilize and their last major cost is the picking cost, which they incur during a very brief period.

So, my impression is that even in a horticultural crop—which is the most labor intensive—that there is still a very big difference in terms of labor costs as a proportion of total cost, compared to something like garments and apparel.

Am I wrong or right?

Mr. TUSSEY. Senator, I think you are partially right. Using your example, there is still enough stoop labor and hand labor needed that there are people coming across the river every day to try to perform those tasks.

Senator HEINZ. I know that. Don't misunderstand me.

Mr. TUSSEY. But it is a rather sizable component, and extrapolating from your example, that is why the guy in California cannot understand why the guy in Mexico, who has got the cheaper labor and a good climate—why he should have an advantage over anyone else selling in this market, by granting him GSP status.

Senator HEINZ. Lastly, I want to return to a question I asked the other panel. You yourselves mentioned the substantial trade barriers or subsidies that other countries—such as Brazil and many others engage in. Under my amendment No. 2675 that was printed in the Congressional Record on January 25, on page S147, with respect to a borderline country—you know, Brazil might be considered a borderline country—it has got a lot of financial problems, but it is an industrializing country with a growing GNP—I would not propose to grant that country GSP unless it either signed the Subsidies Code or had accepted equivalent obligations in a bilateral agreement, or alternatively a bilateral agreement with the United States to eliminate nontariff barriers to trade in goods and services and investment.

Would you support that kind of a provision?

Mr. HAMMER. I think that goes toward answering one of the problems that agriculture had, although I am not sure that the Subsidy Code has yet demonstrated that it is able to solve many of the problems that have been put before us in the last year or so, but that is one of the aspects that agriculture had difficulty with. With the notion of GSP—and that was they were already competitive—Brazil is certainly a good example of that, in many of their oilseed products. Brazil has a whole array of subsidy programs that have depressed the world price for oil and meal to the point where we are in a very difficult situation in our soybean processing industries.

If that would help solve that problem, that would be an approach, but there are other considerations, too, and they come back to the questions that were being pursued earlier: Should we really be giving a benefit to these countries where they are already more than efficient with the United States? But the idea of using some sort of leverage as reducing our trade barriers, I think it is an excellent notion. We should try to do it.

Senator Heinz. Mr. Tussey, how do you feel about that? Do you think that generally it is a good idea?

Mr. Tussey. I think that that is a move in the right direction. I would like to comment on Brazil. In discussing this kind of a problem with our farmers, I immediately hear the following. They say we lost our poultry market in the Mideast to subsidize exports in the European community, which was displaced by subsidized exports from Brazil, and then they ask me a question that is hard: Why should we then give special treatment to Brazil in this market, when we have lost markets to their subsidized exports in the Mideast and other places? So, it is a hard question for me to answer but, yes, this is a notion that was just stated that is in the right direction.

Senator Heinz. Thank you. Mr. Russell.

Mr. Russell. Senator Heinz, I think that as an organization, the National Council would look favorably toward those types of amendments for the same reasons. I would, if I could, comment relative to something that Senator Danforth said, and that is this is not—our exemption that we are asking for—viewed as a bailout for some type of specialty crops or for the sugar people. A number of our poultry producers and our soybean producers are very concerned about extending this GSP status to Brazil and Argentina and other countries which continue to take away our export markets due to export subsidies.

A very good example is what Mr. Tussey said relative to poultry. In 1964, we had about half of the Mideast poultry market, and by 1982 we had less than one-half of 1 percent of the Mideast poultry market because of the continued use of export subsidies by the Brazilians. So, I think that it is a much broader context than just talking about specialty crops or sugar. This is something of impact to all of us.

Senator Danforth. I would just observe that, if you do have your way and exclude all agricultural products from GSP, that is not going to stop Brazil from continuing to subsidize their poultry exports, or stop the Europeans from subsidizing theirs.

Certainly, it is a way of getting back at some terrible bad guy, but it doesn't get you anywhere.

Mr. Russell. I think what we don't like to see, Senator, is the unilateral extension of this duty-free status. However, in the process of negotiating with them, if we were to give them this type of status, we should try to get some reduction in their use of export subsidies or nontariff barriers.

Senator Heinz. That is what I just asked you about. What is the principal difference between the administration's bill and what I propose in the way of amendment. The administration's bill grants a fair amount of flexibility but sets up no particular tests or standards for the granting of GSP, and I am trying to refine that so it makes some sense. I gather you would rather have my approach than the administration's approach in that regard.

Mr. Russell. From what it sounds like, certainly.

Senator Heinz. Take a look at it. I detect a certain note of skepticism toward those of us who are legislators that don't want to go and just sign on the dotted line on a blank piece of paper. Thank you, Mr. Chairman.

Senator DANFORTH. Senator Chafee.

Senator CHAFEE. Thank you, Mr. Chairman. I want to go back to the questioning that was developed by Senator Heinz as I followed it.

Under the legislation, the administration has series of criteria that they look at, and one of the criteria is No. 7, the extent to which the beneficiary country has assured the United States it will provide equitable and reasonable access to the markets in basic commodity resources of such country. Now, what is your answer to that? Not strong enough?

Mr. RUSSELL. Senator, that is an assurance that has been put in there, but the question is where is the playing field starting from? If we start from today, there is a number of unfair trade practices—tariff and nontariff barriers that are already in existence. If we are talking about starting from this day forward, I think we are starting from an unfair playing field.

Senator CHAFEE. I don't think that is the way it reads. It says it will provide reasonable access to the markets. Take the point that Senator Warner raised in his testimony which was very powerful, I thought, dealing with the total restriction of the import of cigarettes into South Korea. Now, obviously, that isn't a reasonable access to the market. I don't think you would suggest that you start from there. They have got total inclusion, and they are entitled to that, but if they do anything further, we will look unfavorably at it. I think that is the suggestion.

Mr. TUSSEY. If I may add to that, Senator, I think I like the approach that Senator Heinz suggested much more because frequently something gets in the way of the assurances. I know, for example—we mentioned a moment ago the export subsidies of Brazil, and there was considerable pressure being put on Brazil earlier to do somthing about their export subsidies, but they got in some financial difficulties, and I would suspect that very little pressure is being put on Brazil now to do anything about their export subsidies in spite of previous assurances that they would do these things.

Senator CHAFEE. All right. Thank you.

Senator DANFORTH. Gentlemen, thank you very much.

Senator Warner is now with us, and we are delighted to have him.

## STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM THE STATE OF VIRGINIA

Senator WARNER. Thank you, Mr. Chairman.

The Senator from Rhode Island has argued my case rather well, and therefore I need only submit my statement and highlight two or three points.

I wish to add, Senator Chafee, to the Korean situation that not only 100 percent tariff on all cigarettes, but this tariff in comparison with other draconian measures which stand in the way of free trade are very effective. By law, it is illegal for a South Korean citizen to possess or consume a non-South Korean cigarette. That means Virginia's Marlboro man would be arrested in South Korea. Now, violation of the law is punishable by fine or imprisonment, and I am told that this law is strictly enforced. As a matter of fact, it is reported that there were more than several thousand convictions. I could go on—Hong Kong—same basic—I missed that, Senator—human rights violation?

Senator **Heinz**. It sounds to me like this is a case of human rights violations.

Senator **Warner**. Now, distinguished members of this committee, what this does is really impact on jobs in Virginia. I have recited in my statement the situation in Hong Kong, which is parallel to the Republic of China, which is parallel—as a matter of fact, foreign cigarettes less than 1 percent of Taiwan's total market. Taiwan receives 28 percent of all GSP benefits. Now, this translates directly into jobs. I wish to recite the following.

Brown & Williamson, a major manufacturer of cigarette products and a major purchaser of U.S. tobacco leaf, recently announced that it would be closing its Petersburg, Va., manufacturing facility in 1985. That plant employed 4,000 workers. Comparably, Philip Morris in Richmond has announced a layoff of something less than 1,000 jobs. So, I can translate this type of what I call irregularities under the GSP treatment into direct job layoffs in Virginia in the past 18 months, and I urge this committee to see what they can do to rectify this situation.

I thank the chairman and the members of the committee.

Senator **Danforth**. Senator Warner, thank you very much.

[The prepared statement of Senator John W. Warner follows:]

## STATEMENT OF THE HONORABLE JOHN W. WARNER, U.S. SENATOR FROM VIRGINIA

Mr. Chairman, I appreciate appearing before you as you begin deliberating legislation to renew the Generalized System of Preferences.

Since it contains certain product exemptions for U.S. industries that would be severely harmed, I have supported this program which helps many nations develop their economies by providing certain preferential access for their products in U.S. markets.

The benefit to these nations is quite obvious—duty-free treatment on selected products. The benefits these nations enjoy are, in some cases, at the expense of U.S. manufacturers of similar products. Nevertheless, it has been U.S. policy to subordinate these temporary hardships to the overall goal of assisting strategically important nations to develop their economies.

One very practical, pragmatic and perhaps self-serving result that we expect from improving these economies, is that their citizens will be capable of purchasing more U.S. products and in the long term, correct trade imbalances.

It is this point—correction of trade imbalance and market access to those nations which enjoy preferential treatment—which is a matter of great concern to me, both as an American and as a Senator from the Commonwealth of Virginia.

I have observed that those nations which benefit most from GSP treatment have continued and, in some cases, increased the barriers to the sale of U.S. products in their nation's markets.

The tobacco industry is a major component of the economy of Virginia. In recent years, it has experienced some difficulty due to a number of factors, one of which is, I believe, the inability of cigarette manufacturers to sell their products in those countries which are enjoying preferential treatment. This inability is due exclusively to policies by these nations which specifically exclude U.S. tobacco products, or impose such heavy tariffs and discriminatory taxes that trade in these nations is impossible or severely handicapped.

Let me cite some examples:

### THE REPUBLIC OF KOREA

The Republic of Korea, whose share of GSP benefits is nearly 13 percent, totally excludes all foreign cigarette manufacturers from its market. First of all, it imposes a 100 percent tariff on imported cigarettes.

But, this tariff is of little consequence when compared with the more draconian measure which stands in the way of free trade. By law, it is illegal for a South Korean citizen to possess or consume a non-South Korean cigarette. Violation of this law is punishable by fine or imprisonment. I am told that this law is strictly enforced; in 1983, it was reported that there were more than several thousand convictions.

### HONG KONG

Hong Kong enjoys approximately 9.5 percent of all U.S. GSP benefits, and while it apparently wishes to have these benefits continued, government officials are simultaneously taking actions which deny U.S. cigarette manufacturers profitable, fair treatment in their market.

As recently as February 1983, the government of Hong Kong increased a discriminatory tax on imported cigarettes, giving local manufactureres a great competitive advantage.

U.S. cigarettes manufacturers were given a Hobson's choice: Lose share of market and/or profitability or transfer manufacturing jobs from the United States to Hong Kong in order to avoid this discrimination.

U.S. manufacturing jobs in Virginia and tobacco sales are suffering because of this discrimination.

### REPUBLIC OF CHINA

The Republic of China has the greatest share of the GSP pie, taking nearly 28 percent of all U.S. GSP benefits. The Taiwan cigarette market is significant, but it hasn't been allowed to become significant to foreign producers.

Taiwan operates on what is in effect a quota system on imported cigerattes. Foreign cigarettes comprise less than one percent of Taiwan's total market, and U.S. production accounts for about one-fourth of that import total. Taiwan tightly controls the importation of cigarettes and limits the distribution and sale of these cigarettes to special outlets. The import quota has been decreasing.

Sadly, I conclude, that those we are attempting to assist through the Generalized System of Preferences program are simultaneously denying certain U.S. manufacturers access to their own markets. There is an inequity that exists which I find difficult to reconcile with the sacrifices which the United States is making to assist these developing nations.

I have concentrated on the cigarette industry because of its importance to my state, the Commonwealth of Virginia. The problems experienced by tobacco growers, as well as cigarette manufacturers, are the result of restrictive trade practices in countries such as South Korea, Taiwan and Hong Kong, in which there is demand for U.S. cigarette products but, through policy or taxation, competitive U.S. access is prohibited. Virginia is feeling the effects of this.

Brown and Williamson, a major manufacturer of cigarette products and a major purchaser of U.S. tobacco leaf, recently announced that it would be closing its Petersburg manufacturing facility in 1985. The Petersburg plant once employed approximately 4,000 workers. When B & W was forced to begin releasing employees in 1983, it attributed this action to, among other reasons, a decline in export sales last year and recent tobacco tax increases in Hong Kong.

Philip Morris Incorporated, which is the major employer in the city of Richmond, recently announced that due to a number of circumstances, it was forced to institute a program eliminating nearly 500 jobs.

Virginia tobacco growers produce nearly 124 million pounds of tobacco leaf annually, valued at approximately $218 million. This represents over 13 percent of Virginia's total cash receipts from all farm commodities. Yet, far too much crop remains on warehouse floors, unsold.

While the demand for U.S. exported cigarettes is on the increase, the number of exports is decreasing. This is due in no small part to the discriminatory policies of some of the leading GSP beneficiaries.

Economic hardships are being experienced in the tobacco industry, and the workers and their families are suffering. There is a solution to the problem. It lies in the ability to compete in the cigarette markets of those very same nations which enjoy preferential trade benefits from the U.S., but which pursue anti-competitive trade policis, severely limiting U.S. access to their markets.

The simple fact is that where there is a demand for a U.S. product, such as there is for U.S. tobacco products, we should be given competitive access. But, ironically, these same nations appear to be closing their eyes to any discomfort which Americans may be suffering. This is wrong from a moral and practical point of view, and counter to the progressive development of these economies. I am distressed by it.

Based on the lack of access that the tobacco industry has to these countries, it suggests to me that other industries may be similarly affected.

As I stated at the outset, I favor a program which assists developing nations to become self-sufficient. Currently, I am inclined to support renewal of the GSP program, but I must temper my support with one major reservation. The United States should take a hard look at the price we are paying and the steps that are being taken by our preferred trading partners to provide access to U.S. manufacturers to foreign markets. Until I see some positive steps taken to remove some of the more outrageous restrictions to the U.S. tobacco industry, I will be inclined to withhold a final judgment as to whether I can support renewal of this program.

Senator DANFORTH. One thing I think we can do is to pass the reciprocity bill, which we have twice passed in the Senate, as you know. Other than a hold that was drummed up in the last hours of the last session of Congress, we would have passed it again.

So, it is something that I think would get at exactly this kind of problem in a more generic way.

Senator Heinz.

Senator HEINZ. No questions. I commend Senator Warner on a very eloquent statement.

Senator DANFORTH. Thank you. Mr. Koplan and Mr. Schleicher.

## STATEMENT OF STEPHEN KOPLAN, LEGISLATIVE REPRESENTATIVE, AFL-CIO, WASHINGTON, D.C.

Mr. KOPLAN. Thank you, Mr. Chairman. I am accompanied by Mark Anderson, trade economist in the Department of Economic Research. I will not read my full statement but will summarize it for the record and ask that the full text appear as though it had been read.

Mr. Chairman, the AFL-CIO believes that the President's authority to eliminate duties on certain articles from developing countries under GSP, which is due to expire on January 3, 1985, should not be renewed. We therefore oppose S. 1718, a bill to renew the President's authority. U.S. imports are heavily concentrated in industrial sectors such as minerals and metal products, machinery and equipment, and miscellaneous manufactures. These industries are among America's most endangered, already suffering high levels of unemployment due to imports and worldwide recession.

The existing procedures for the graduation of import sensitive products has been woefully inadequate. Since its inception, the program has provided the greatest amount of assistance to those countries that needed it the least. By 1982, the top 15 GSP countries accounted for an astonishing 88 percent of GSP imports. It is obvious that, for the remaining 125 countries, the benefits of GSP are marginal at best. If Congress finds it necessary to renew GSP, at the very least, the AFL-CIO believes that Taiwan, South Korea, and Hong Kong—the top three recipients of GSP benefits—should be graduated immediately from GSP beneficiary status. In 1982 three countries alone accounted for almost 50 percent of all GSP imports. These three countries are already major trading nations exporting together in 1982 more than 21 billion dollars' worth of goods to the United States alone. Our trade deficit with these three countries exceeded $10 billion in that year.

These three countries crowd out less developed countries from GSP eligible product sales while contributing at the same time to the decline of U.S. industry. There needs to be simpler and better criteria for graduating products and GSP eligibility. For product graduation, we would propose a $200 million ceiling for all products in the two-digit standard industrial classification category imported from one country. When such a limit is reached in a calendar year, the appropriate duty would immediately be assessed. Further, an overall level of $1 billion in products in a two-digit category imported duty-free from all GSP countries should be established as a criteria to remove such products from GSP eligibility. Such graduation mechanisms would help assure that GSP went to countries that needed help in developing a trade capability and be limited to quantities of products that will not harm U.S. producers. The administration's bill, S. 1718, does not address our concerns.

Mr. Chairman, in addition, the AFL-CIO believes that if Congress renews GSP, strong provisions concerning human and trade union rights should be made an integral part of the program, that countries should not be designated as a beneficiary developing country where these basic rights are restricted or denied. I appreciate your allowing me to go over my time.

Senator DANFORTH. Mr. Schleicher.

[The prepared statement of Stephen Koplan follows:]

84-01

## SUMMARY OF
## STATEMENT OF STEPHEN KOPLAN, LEGISLATIVE REPRESENTATIVE, DEPARTMENT OF LEGISLATION, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS BEFORE THE U.S. SENATE COMMITTEE ON FINANCE, SUBCOMMITTEE ON TRADE, ON S.1718, THE ADMINISTRATION'S PLANS FOR RENEWING THE GENERALIZED SYSTEM OF PREFERENCES (GSP)

January 27, 1984

1. The AFL-CIO believes that the President's authority to eliminate duties on certain articles from developing countries under the Generalized System of Preferences (GSP) which is due to expire on January 3, 1985, should not be renewed. We, therefore, oppose S. 1718, a bill to renew the President's authority.

2. GSP imports are heavily concentrated in industrial sectors such as minerals and metal products, machinery and equipment, and miscellaneous manufactures. These industries are among America's most endangered, already suffering high levels of unemployment due to imports, and worldwide recession. The existing procedures for the graduation of import-sensitive products has been woefully inadequate.

3. Since its inception, the program has provided the greatest amount of assistance to those countries that need it the least. By 1982, the top 15 GSP countries accounted for an astonishing 88 percent of GSP imports. It is obvious, that for the remaining 125 countries, the benefits of GSP are marginal at best.

4. If the Congress finds it necessary to renew GSP, at the very least, the AFL-CIO believes that Taiwan, South Korea, and Hong Kong, the top three recipients of GSP benefits should be graduated immediately from GSP beneficiary status. In 1982, those three countries alone accounted for almost 50 percent of all GSP imports. These three countries are already major trading nations, exporting together in 1982 more than $21 billion worth of goods to the United States alone. Our trade deficit with these three countries exceeded $10 billion in that year. These three countries crowd out less developed countries from GSP eligible product sales while contributing at the same time to the decline of U.S. industry.

5. There needs to be simpler and better criteria for graduating products from GSP eligibility. For product graduation, we would propose a $200 million ceiling for all products in a two-digit Standard Industrial Classification (SIC) category imported from one country. When such a limit is reached in a calendar year, the appropriate duty would immediately be assessed. Further an overall level of $1 billion in products in a two-digit category imported duty-free from all GSP countries should be established as a criteria to remove such products from GSP eligibility. Such graduation mechanisms would help assure that GSP went to countries that needed help in developing a trade capability and be limited to quantities of products that will not harm U.S. producers.

6. The Administration's bill, S. 1718, does not address any of our concerns. We believe that proposal provides the President with a 10-year blank check to fashion a program in any way he wishes by vastly increasing his discretionary authority, further diluting the minimal protections provided by current law, and virtually eliminating the ability of Congress to monitor and review the operation of GSP.

7. In addition, the AFL-CIO believes that if Congress renews GSP, strong provisions concerning human and trade union rights should be made an integral part of the program. A country should not be designated as a beneficiary developing country where these basic rights are restricted or denied.

84-01

# STATEMENT OF STEPHEN KOPLAN, LEGISLATIVE REPRESENTATIVE, DEPARTMENT OF LEGISLATION, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS BEFORE THE U.S. SENATE COMMITTEE ON FINANCE, SUBCOMMITTEE ON TRADE, ON S.1718, THE ADMINISTRATION'S PLANS FOR RENEWING THE GENERALIZED SYSTEM OF PREFERENCES (GSP)

January 27, 1984

The AFL-CIO welcomes this opportunity to present our views on S.1718, a bill to renew the President's authority to eliminate duties on certain articles from developing countries under the Generalized System of Preferences (GSP). This authority, granted by Congress, under Title V of the Trade Act of 1974, is due to expire on January 3, 1985.

We believe the GSP program has not fulfilled its goals, is contrary to the interests of U.S. workers, and represents a prime example of misguided government policies and practices in the area of international trade and investment.

We believe the system should not be renewed. In the more than 9 years of its existence, GSP has provided pitifully little benefit to the majority of the less developed countries, and has contributed to the deterioration of U.S. industries and unemployment.

The GSP was enacted for a period of 10 years in 1975, in response to a U.S. supported recommendation of the United Nations Conference on Trade and Development. It was constructed as a program of unilateral, and temporary tariff preferences granted by the United States. Its purpose was to assist developing countries diversify their exports and increase their rate of economic growth.

It was hoped that the program would enable poorer countries to acquire foreign exchange, and participate more actively in the world trading system, thereby contributing to these nations' social and economic development. It is clear, however, that the emphasis on export led development, as promoted by GSP, has not created the benefits originally envisaged and has served to some degree to further aggravate the gaps between the haves and have-nots in the developing world.

At present, the GSP grants special zero tariffs to approximately 3,000 categories of products imported from 140 countries and territories. From 1976 to 1982, the value of imports receiving GSP treatment has risen from $3 billion to $8.5 billion and accounts for 4.9 percent of our total non-petroleum imports. GSP imports are heavily concentrated in industrial sectors such as minerals and metal products, machinery and equipment, and miscellaneous manufactures. These industries are among America's most endangered, already suffering high levels of unemployment due to imports, and worldwide recession.

Import-sensitive products are flooding the country from every part of the world. The Trade Act of 1974 states that "import-sensitive articles," such as textiles and apparel, electronic articles, steel articles, footwear, glass, and "any other articles the President determines to be import sensitive in the context of GSP" should not be granted duty-free status.

Despite these restrictions, the GSP eligible list continues to contain a wide array of products that are clearly import sensitive. Examples of such items include:

Hangars and other buildings, bridges, etc. of iron or steel.

Telephone apparatus and parts.

Electronic equipment of various kinds.

Photographic equipment of various kinds.

Motor vehicles, designed for special services or functions.

Motor vehicle parts.

Aircraft parts.

Machinery of a wide variety of kinds, including some machine tools, metalworking machinery, handtools, accounting, computing and other data processing machines, etc.

We see no justification at a time when America is experiencing high levels of unemployment to allow GSP duty-free treatment for this kind of overseas production.

The AFL-CIO has had experience with many other import-sensitive products receiving GSP treatment -- glass articles, leather wearing apparel, oil drilling rigs, drydocks, etc., where the Executive Branch has failed to comply with what we believe was Congressional intent in exempting import-sensitive items.

Most of these items, we believe, should not have been placed on the list in the first place. Nevertheless, producers and workers in the United States must bear the burden of proof and protest with facts, figures, hearings and delays before the Administration decides whether or not the item should be removed from the list because of import sensitivity.

It makes no sense for this burden to be entirely on the public. The government of the United States has a responsibility to assure the citizens of this country that their jobs and production will not be sacrificed through special arrangements that supposedly would help the poor countries of the world. The existing procedures for the graduation of import-sensitive products have been woefully inadequate.

To make matters worse, the intended beneficiaries of GSP have not, in any real way, been helped. Since its inception, the program has provided the greatest amount of assistance to those countries that need it the least. In 1976, the top 15 beneficiary developing countries accounted for 79 percent of all GSP duty-free imports. By 1982, the top 15 countries accounted for an astonishing 88 percent of GSP imports. It is obvious, that for the remaining 125 countries, the benefits of GSP are marginal at best.

In 1982, the top three beneficiary developing countries alone accounted for almost 50 percent of all GSP imports.

Taiwan enjoyed $2.3 billion in duty-free GSP exports out of a total of $9.6 billion in total exports to the U.S.

South Korea enjoyed $1.1 billion in duty-free GSP exports out of $6 billion in total exports to the U.S.

Hong Kong enjoyed $794 million in duty-free GSP exports out of $5.9 billion in total exports to the U.S.

It should be emphasized, that in addition to the obvious inequity in benefits vis-a-vis other developing countries demonstrated by these figures, the volume of their imports to the U.S. not covered by GSP indicates that they do and can compete in world trade, are highly industrialized, and do not require special treatment.

In 1982, Taiwan enjoyed a trade surplus with the U.S. of more than $5 billion; Hong Kong, almost $3.5 billion; and South Korea, almost one-half billion. These surpluses have increased dramatically in 1983. For the first three quarters of last year, the U.S. deficit is running 32 percent higher with Taiwan, 18 percent higher with Hong Kong, and 52 percent higher with South Korea when compared to the corresponding period in 1982.

At a time when the U.S. merchandise trade deficit reached $43 billion in 1982, and will probably exceed $70 billion in 1983, the continuation of special privileges for countries like these, is the height of folly.

Because the GSP system has not fulfilled the goals of development and has hurt U.S. production and jobs, the AFL-CIO urges that the program be ended. At the very least, countries which have become competent in world trade should not, in our view, continue to receive these benefits. Products which are undermining the U.S. economic base and adding to the already serious levels of U.S. unemployment should not remain eligible for duty-free treatment. This policy was expressed at the AFL-CIO Convention in October 1983, as follows:

> "The Generalized System of Preferences should be repealed. At minimum, Congress must make import-sensitive items ineligible for GSP, limit its access to those countries that can realistically be considered developing nations, and exclude communist nations from the program."

If the Congress finds it necessary to renew GSP, greater attention should be paid to both its impact on the domestic economy, and the level of development of those countries receiving benefits under the program. In order for Congress to properly assess these factors, any extension of GSP should be no more than 3 years. Communist countries such as Romania have no place in a program that grants preferential treatment and should be declared ineligible. Provisions for the meaningful graduation of both countries and products from GSP should be enacted.

At the very least, the AFL CIO believes that Congress should provide for the immediate graduation of Taiwan, South Korea, and Hong Kong, the top three recipients of GSP benefits.

These countries are already major trading nations, exporting together in 1982 more than $21 billion worth of goods to the United States alone. Of that total, more than $4 billion received GSP duty-free treatment. Our trade deficit with these three countries exceeded $10 billion in that year and will be considerably higher in 1983. In addition each of these countries is clearly not in the category of the least developed nations. The 1982 per capita Gross Domestic Product in Hong Kong was $4,952; in Taiwan, the 1982 per capita Gross National Product was $2,543 and in South Korea, $1,678. This level of development is a far cry from the many nations with per capita income of less than $1,000. Under such circumstances, it is hard to justify that these three countries need GSP to become competent in world trade or to promote development. Rather, it seems that these three countries crowd out less developed countries from GSP eligible product sales while contributing at the same time to the decline of U.S. industry.

Criteria, such as total volume of exports, amount of exports not subject to GSP, and amount of GSP exports are suitable criteria to be written into the law to apply generally to the graduation of countries.

Similarly, there needs to be simpler and better criteria for graduating products from GSP eligibility. We would propose that a product in any country be removed from GSP eligibility in that country if $200 million in a two-digit Standard Industrial Classification (SIC) category is imported from that country. When such a limit is reached in a calendar year, the appropriate duty would immediately be assessed and would continue for the following calendar year as well. GSP eligibility in that product category for that country could only be restored if imports for that full calendar year period remained under $150 million. Further, an overall level of $1 billion in products in a two-digit category imported duty-free from all GSP countries should be established as a criteria to remove such products from GSP eligibility.

Such graduation mechanisms would help assure that GSP went to countries that needed help in developing a trade capability and be limited to quantities of products that will not harm U.S. producers.

In addition, the AFL-CIO believes that if Congress renews GSP, strong provisions concerning human and trade union rights should be made an integral part of any legislation. A country should not be designated as a beneficiary developing country where these basic rights are restricted or denied. Regular Congressional oversight would be necessary to ensure the proper application of such provisions.

Unfortunately, the Administration, in its proposal to renew Presidential authority for the operation of the Generalized System of Preferences, does not address any of these concerns. We believe the amendments to Title V of the Trade Act of 1974 proposed in S.1718 provide the President with a 10-year blank check to fashion a program in any way he wishes by vastly increasing his discretionary authority, further diluting the minimal protections provided by current law, and virtually eliminating the ability of Congress to monitor and review the operation of this system.

The centerpiece of the Administration's bill, S.1718, would amend Section 504(c) of the Act, to provide Presidential authority to waive the existing competitive need limit indefinitely when deemed in the national interest. While basing such a decision on factors listed in current law, the Administration's bill states: "In making this determination, the President will give great weight to the extent to which the country has assured the U.S. that it will provide equitable and reasonable access to the markets of such country."

Under competitive need limitations in current law, a country loses GSP treatment for a particular product if its shipments of that product in the preceding calendar year exceeded 50 percent of the value of total U.S. imports of the product or a specific value limit that is adjusted annually. The limit for 1982 was $53.3 million. These limitations were established by Congress to provide some measure of protection to American producers and workers, and to establish criteria by which a country's need for this special privilege could be judged. As indicated earlier, these guidelines need to be strengthened and simplified, not eliminated through Administration decision.

In addition, by suggesting the further liberalization of GSP benefits to countries who reduce barriers to American goods and investment, the Administration appears to be ignoring guidelines in the current law which direct the President in determining whether to designate a country eligible for GSP to take into account "the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country" (Sec. 502(c)(4)). It would seem that GSP eligibility for countries that restrict market access should simply be revoked, not further extended.

The Administration has proposed additional amendments to Section 504 in an attempt to address the problem of the high level of concentration of GSP benefits in just a few countries. Here, the bill would direct the President to determine whether a country has demonstrated a sufficient level of competitiveness in a particular product, relative to other beneficiary countries which produce the same product. If such a finding were made, the President could reduce the competitive need limit by half, theoretically opening our market to other GSP country producers. It is unclear how this amendment would fit with the one previously noted that grants the President authority to move in the opposite direction and waive the competitive need limit entirely. It appears that these amendments permit the President to take any action he sees fit.

Other provisions of the Administration's proposal undermine Congressional oversight authority. They include the Presidential authority to establish a separate group of countries not subject to any competitive need limits and the elimination of a Presidential report to Congress on the operation of this program. If Congress determines that the renewal of GSP in some form is necessary, it should strengthen, not weaken its supervisory role.

The AFL-CIO has consistently supported programs that provide a genuine development potential for the poorer nations of the world. We have maintained ties with labor groups in other countries and supported efforts for healthy development and a more effective world trading system. GSP has not helped to achieve those goals and it should not be renewed.

**TAIWAN**

| | (Millions of Dollars) | | |
|---|---|---|---|
| | U.S. Imports | U.S. Exports | Deficit |
| 1982 | 9586.9 | 3280.7 | 6306.2 |
| Jan.-Sept. 1983 | 8626.4 | 3356.1 | 5270.3 |

**HONG KONG**

| | (Millions of Dollars) | | |
|---|---|---|---|
| | U.S. Imports | U.S. Exports | Deficit |
| 1982 | 5895.1 | 2452.7 | 3442.4 |
| Jan.-Sept. 1983 | 4899.5 | 1876.5 | 3023.0 |

**SOUTH KOREA**

| | (Millions of Dollars) | | |
|---|---|---|---|
| | U.S. Imports | U.S. Exports | Deficit |
| 1982 | 6011.5 | 5528.8 | 482.7 |
| Jan.-Sept. 1983 | 5598.1 | 4399.9 | 1198.2 |

Source: U.S. Department of Commerce, Highlights of U.S. Export and Import Trade, December 1982, and September 1983

## TWO-DIGIT IMPORT-BASED SIC TITLES

| | |
|---|---|
| 01 | Agricultural Products |
| 02 | Livestock and Products |
| 08 | Forestry Products |
| 09 | Fish |
| 10 | Metallic Ores |
| 12 | Coal and Lignite |
| 13 | Crude Petroleum and Natural Gas |
| 14 | Nonmetallic Minerals, except Fuels |
| 20 | Food and Kindred Products |
| 21 | Tobacco Manufacturing |
| 22 | Textile Mill Products |
| 23 | Apparel and Related Products |
| 24 | Lumber and Wood Products, except Furniture |
| 25 | Furniture and Fixtures |
| 26 | Paper and Products |
| 27 | Printing, Publishing |
| 28 | Chemicals and Products |
| 29 | Petroleum Refining and Products |
| 30 | Rubber and Miscellaneous Plastics |
| 31 | Leather and Products |
| 32 | Stone, Clay, Glass and Concrete Products |
| 33 | Primary Metal Products |
| 34 | Fabricated Metal Products |
| 35 | Machinery, except Electrical |
| 36 | Electrical Machinery, Equipment, Supplies |
| 37 | Transportation Equipment |
| 38 | Measuring, Analyzing and Controlling Instruments; Photographic and Optical Goods; Watches and Clocks |
| 39 | Miscellaneous Manufactures |
| 91 | Scrap and Waste |
| 92 | Used or Second-hand Merchandise |
| 98 | U.S. Goods Returned |
| 99 | Miscellaneous Commodities |

## STATEMENT OF DEAN K. SCHLEICHER, LEATHER PRODUCTS COALITION, WASHINGTON, D.C.

Mr. SCHLEICHER. Mr. Chairman, members of the committee. My name is Dean Schleicher, and I am product manager of JOMAC Products—a work glove manufacturer located in Warrington, Pa., Brunswick, Mo., and Warsaw, Ind. And I am past president of the Work Glove Manufacturers Association. I am appearing today as a spokesman for the Leather Products Coalition, whose members include the organizations listed in the full text of the testimony.

I am accompanied by Stan Nehmer, a consultant to the leather-related industries. The table attached to my summary statement shows the key indicators of these industries. I request that the individual statements of the groups represented here today be inserted in the record of this hearing.

The three unions which are part of the Leather Products Coalition acknowledge their overall support for the AFL-CIO legislative position on GSP renewal. The statement which follows contains some additional views and recommends possible alternative changes regarding the operation of the GSP program which reflect these unions' specific concerns about the GSP program, the administration's renewal package, and the impact of imports on specific leather-related products manufactured by their members.

The Leather Products Coalition position can be summarized as follows. It is essential that our products be statutorily excluded from the GSP program if it is renewed. Congress saw fit to do so in the CBI legislation because of the import sensitivity of these products and the high labor-intensive content of these products. Current import penetration estimates for our industry illustrate this point; 35 percent for personal leather goods, 45 percent for luggage, 85 percent for handbags, 40 to 45 percent for work gloves, and 59 percent for leather wearing apparel.

It is even more essential that the same be done for the much broader GSP program. Furthermore, even if this exclusion is granted, we believe that the administration's proposal to relate preferential treatment to market access is inappropriate under the GSP and should be dropped. Instead, the administration should fully graduate the most advanced developing countries from the GSP.

There have been numerous instances where import sensitive leather related products have been the subject of petitions of foreign governments to add our products to the preference list—for example, Thailand. If Thailand's position had been granted, all GSP beneficiary countries including Hong Kong, Taiwan, and Korea, which already dominate the U.S. work glove market, would have been allowed to bring these work gloves in duty-free. The GSP should not be made into a U.S. export development program. The GSP was originally meant to be a development program for less developed countries. If we believe the administration, however, it will also provide the United States with a potent new negotiating tool to sell U.S. exports abroad.

This is an inappropriate approach to negotiate market access for U.S. products abroad. I am just about finished, sir.

These leather-related products are at least as sensitive as those products originally statutorily excluded quite correctly from the

GSP program by Congress—watches, footwear, and textiles—our products should be statutorily excluded from GSP as was done in the CBI for similar reasons. Thank you very much, sir.

Senator DANFORTH. Thank you. Senator Heinz.

[The prepared statement of Dean K. Schleicher follows:]

# LEATHER PRODUCTS COALITION

STATEMENT OF DEAN K. SCHLEICHER
PRODUCT MANAGER, JOMAC PRODUCTS
WARRINGTON, PENNSYLVANIA, BRUNSWICK, MISSOURI &
WARSAW, INDIANA
PAST PRESIDENT, WORK GLOVE MANUFACTURERS ASSOCIATION
GRAYSLAKE, ILLINOIS

ON BEHALF OF THE
LEATHER PRODUCTS COALITION

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Before the Subcommittee on International Trade
Committee on Finance
United States Senate

On S. 1718

Renewal of the Generalized System of Preferences

January 27, 1984

My name is Dean Schleicher and I am Product Manager of Jomac Products, a work glove manufacturer located in Warrington, Pennsylvania, Brunswick, Missouri and Warsaw, Indiana, and past President of the Work Glove Manufacturers Association. I am appearing today as a spokesman for the Leather Products Coalition whose members include:

Amalgamated Clothing and Textile Workers Union, AFL-CIO
International Leather Goods, Plastics & Novelty Workers' Union, AFL-CIO
Luggage & Leather Goods Manufacturers of America, Inc.
United Food & Commercial Workers International Union, AFL-CIO
Work Glove Manufacturers Association

I am accompanied by Stanley Nehmer, consultant to the leather-related industries whose organizations are represented here today and whose products include luggage, handbags, personal leather goods, work gloves, and leather wearing apparel. The table attached to my summary statement shows the key indicators for these industries. I would ask that the individual statements of the groups represented here today be inserted in the record of this hearing.

It should be noted that the three unions which are part of the Leather Products Coalition wish to acknowledge their overall support for the AFL-CIO's legislative position on GSP renewal. The statement which follows contains some additional views and recommends possible alternative changes regarding the operation of the GSP program which reflect these unions' specific concerns about the current GSP program, the Administration's renewal package, and the impact of imports on specific leather-related products manufactured by their members.

The Leather Products Coalition position can be summarized as follows: It is essential that our products be statutorily excluded from the GSP program if it is renewed. Congress saw fit to do so in the CBI legislation because of the import sensitivity of these products. It is even more essential that the same be done for the much broader GSP program. Furthermore, even if this exclusion is granted, we believe that the Administration's proposal to relate preferential treatment to market access is inappropriate under the GSP and should be dropped. Instead, the Administration should fully graduate the most advanced developing countries from the GSP. We take this position because:

- The manufacture of our products is highly labor intensive which makes our industries and workers vulnerable to import competition from low-wage foreign countries -- those very countries which are beneficiary developing countries under the GSP. Current import penetration estimates for our industry are illustrative of this point: 35 percent for personal leather goods; 45 percent for luggage; 85 percent for handbags; 40-45 percent for work gloves and 59 percent for leather wearing apparel.

- Unemployment in the leather products sector rose to almost 18 percent in 1983. Firms in our industries are typically small-to-medium sized establishments which employ low-skilled individuals, minorities, and women who are often secondary wage earners. Reemployment prospects for such groups are poor.
- There have been numerous cases where import sensitive leather-related products have been the subject of petitions of foreign governments to add our products to the Preference list. For example, in 1982, the Executive Branch considered a petition from Thailand to add certain work gloves to the GSP list, even though import penetration for this glove category was 20 percent, and 40-45 percent for the industry as a whole. If Thailand's petition had been granted, all GSP-beneficiary countries -- including Hong Kong, Taiwan, and Korea which already dominate the U.S. work glove market -- would have been allowed to bring

these work gloves in duty-free. Moreover, according GSP eligibility to this one item would have guaranteed intensified foreign production in this category, weakening this relatively stronger industry segment's competitive position, jeopardizing still further the overall health of the industry. We were successful in stopping this action, but the effort took a tremendous toll, financially and time-wise, on the industry and industry executives on a matter we thought we had long-settled -- our industry's import sensitivity!

- The GSP should not be made into an export development program. The GSP was originally meant to be a development program for less developed countries. If we believe the Administration, however, it will also provide the United States with a potent new negotiating tool to sell U.S. exports abroad. This is an inappropriate approach to negotiate market access for U.S. products abroad. We are also concerned that the Executive Branch, in its zeal to open such markets, will begin (at the request of the advanced developing countries) to offer-up as GSP-eligible those import-sensitive products, such as ours, which are the ones which the advanced developing countries already export to us in growing quantities.

- These leather-related products are at least as sensitive as those products originally statutorily excluded, quite correctly, from the GSP program by Congress -- watches, footwear and textiles. We think Congress should recognize this fact by statutorily excluding our products from GSP as was done in the CBI for similar reasons.

Finally, I wish to note that the President, in his January 3, 1984 proclamation on Small Business Week 1984, stated:

> Entrepreneurs are the standard-bearers of economic progress and the stalwarts of the energizing forces of the free market. As we embark upon a new era of economic growth and development, we should encourage small business owners by acknowledging their tremendous importance as the mainsprings of continued economic and individual progress for our Nation.

The firms in the industries in the Leather Products Coalition are, with few exceptions, the small businesses which President Reagan acknowledged as the "mainsprings of continued economic and individual progress for our Nation." Yet GSP has and can continue to harm such businesses.

I appreciate this opportunity to testify before you today and Mr. Nehmer and I are available to answer any questions you may want to address to us.

Table 1

## SELECTED ECONOMIC INDICATORS OF THE HEALTH OF THE LEATHER-RELATED INDUSTRIES

| | Nonrubber Footwear | Luggage | Personal Leather Goods | Handbags | Leather Apparel | Leather Work Gloves |
|---|---|---|---|---|---|---|
| **Employment** (number of employees) | | | | | | |
| 1977 | 156,900 | 17,300 | 33,100 | | 6,700 | 5,500 |
| 1980 | 143,600 | 16,300 | 30,000 | | 8,000 | 6,100 |
| 1981 | 146,400 | 15,200 | 30,600 | | 7,500 | 5,700 |
| 1982 | 136,800 | 14,000 | 28,200 | | N/A | N/A |
| 1983(E) | 132,000 | 13,100 | 26,300 | | 6,000 | 5,000 |
| **Production/ Shipments** | (million prs.) | (million dollars) | (million dollars) | (million units) | (million dollars) | (thousand dz. prs.) |
| 1977 | 418.4 | 585.0 | 369.0 | 55.8 | 211.0 | 3,710 |
| 1980 | 386.3 | 308.0 | 426.0 | 47.9 | 247.0 | 2,732 |
| 1981 | 372.0 | 740.0 | 442.0 | 46.5 | 248.0 | 2,692 |
| 1982 | 342.4 | 683.0(E) | 415.0(E) | 38.8 | 233.0(E) | 2,354 |
| 1983(E) | 325.0 | 651.0 | 398.0 | N/A | 221.0 | 2,165 |
| **Imports** | (million prs.) | (million dollars) | (million dollars) | (million dollars) | (million dollars) | (thousand dz. prs.) |
| 1977 | 368.1 | 118.0 | 44.0 | 207.1 | 220.4 | 2,090 |
| 1980 | 365.7 | 243.2 | 71.9 | 350.6 | 170.9 | 3,175 |
| 1981 | 375.4 | 291.9 | 84.1 | 406.2 | 207.1 | 3,028 |
| 1982 | 479.5 | 334.8 | 87.5 | 409.6 | 252.0 | 3,091 |
| 1983(E) | 580.0 | 390.0 | 102.0 | 460.0 | 260.0 | 3,400 |
| **Import Penetration*** (percent) | | | | | | |
| 1977 | 47 | N/A | N/A | 63 | 51 | 37 |
| 1980 | 50 | N/A | N/A | 77 | 42 | 54 |
| 1981 | 51 | 40(E) | 30(E) | 81 | 47 | 53 |
| 1982 | 59 | N/A | N/A | 84 | 56 | 57 |
| 1983(E) | 64 | 45 | 35 | 85 | 59 | 61 |

* For the luggage and personal leather goods industries, where import and domestic production data are available only in terms of value, import penetration has been estimated.

(E) -- Estimated.

N/A -- Not available.

Source: Economic Consulting Services Inc.; based on U.S. Department of Commerce, International Trade Commission and Bureau of Labor Statistics data.

(revised January 1984)

Senator HEINZ. Thank you, Mr. Chairman. Just one question. The administration's position is in opposition to conforming the GSP to the CBI product category list, which you just enumerated. Could you expand on your arguments in favor of conforming the list and to what extent does conforming the list worldwide—what we have done in the Caribbean Basin—either help or hurt the Caribbean Basin Initiative, which I think everybody believes—whether they agree with every jot and tittle in the legislation—is a good concept, in terms of helping our next-door neighbors.

Mr. SCHLEICHER. I think Stan could answer that.

Mr. NEHMER. Senator, Congress in 1974 saw fit to exclude textiles, apparel, footwear from GSP by name, although you should know that there is a problem with the exclusion for textiles and apparel, which is now the subject of a case before the Court of International Trade, and I suspect you will be hearing from the textile and apparel industry on that.

In the CBI, the administration proposed the exclusion of textiles and apparel. Now the arguments for excluding textiles, apparel, and footwear in GSP, and textiles and apparel in CBI apply equally to the other leather-related products that we are talking about—luggage, flat goods, work gloves, handbags, leather wearing apparel. They all are labor-intensive. They all have high import penetration rates. The bulk of the imports comes from these developing countries. Now, if the United States is going to maintain these leather industries, the arguments which apply to textiles and apparel apply equally to the leather products industry.

We know why the administration proposed textiles and apparel initially to be excluded from the CBI—because they figured that they wouldn't have a political chance of getting the CBI legislation out if they didn't. And when they saw the logic of the position of the Leather Products Coalition to exclude the additional products, in order to get that legislation passed, they went along with it. I hope that is responsive, Senator, to your question.

Senator HEINZ. It is a response to the first part of my question. The second part is would failure to accord leather products, for example, the same treatment as accorded under CBI—what effect would that have on the CBI? Would it make it less effective or more effective in terms of Caribbean Basin development?

Or would it possibly have no effect? I don't know.

Mr. NEHMER. If you cannot have zero duty treatment coming from the Caribbean Basin, but you can have zero duty treatment coming from the rest of the world on some of these products, I would assume it would undercut CBI—it could undercut CBI—the objectives of the CBI legislation. So, it makes sense to put the world as a whole on the same basis as what Congress saw fit to do in the Caribbean Basin legislation. Very important.

Senator HEINZ. Thank you.

Mr. KOPLAN. I would just make the additional comment, Senator, if I can articulate this, that my recollection is that the CBI countries get GSP, so if you don't carry forward the exemption that is in CBI to GSP, then you negate what was done in the CBI legislation.

Senator DANFORTH. Thank you, gentlemen. Senator Chafee.

Senator **Chafee**. Thank you, Mr. Chairman. Gentlemen, what we are seeing here is—and I sympathize with your position, but what we are seeing here, of course, is a continued attack on really, I guess you would call it, free trade. And there are frustrations with it, but nonetheless it is my understanding that every industrial country has some form of a GSP, and obviously this is designed to help the lesser advantaged countries. Now, there can be objections to that, and I think the point that Mr. Koplan makes about Taiwan, Hong Kong, and Korea being the principal beneficiaries of this program is a valid one.

I raised that when Ambassador Brock came up here. I think you were here, Mr. Koplan, at the time. I asked him: Why should they get it? And his answer wasn't exactly responsive to my question, as you recall, but what he said was that, if you removed it from those three nations, then here is his answer. What if we removed the benefit from the top three, four, five, six—whatever number—and simply said they are not allowed to have GSP? I think we can document the fact that all of the benefits that they now get would go to Japan and Germany and Great Britain and France, and almost none would go to the least developed countries that, I think, you and I are concerned with.

The fact is that people that would step into the vacuum created by the removal of GSP from these countries are not the least developed countries. You cannot be doing anything for the poorest if you did that. So, nonetheless, I think that gets away from the point that you raised, Mr. Koplan. So, I think there is a strong argument for removing those top three recipients and perhaps moving them under the proposal that you make of, I think it was—200 million to the two digit standard industrial classification category but, nonetheless, I don't think that that is an argument for getting away from the whole program. And I don't quite understand why you come to the conclusion—and you do, it is very forthright—that you are just against the whole program, Steve. You say in your testimony that therefore the AFL-CIO thinks the whole thing should be gotten rid of. I think that is a little harsh because of the fact that three countries get the most benefits.

Suppose we eliminate those three countries? Where are you then?

Mr. **Koplan**. I think, as you have correctly stated, our first position would be to let the program expire. Let me say that I was reading over—and I have it in front of me—your colloquy with Ambassador Brock when that hearing took place, and I thought, frankly, that he was in part making the case that we are trying to make—historically our experience with GSP has been that the countries that have benefited the most have been countries that are not less developed countries, and when you were questioning him, you said that, and I am quoting, "the top five countries gobble up 63 percent of the advantages under this program, you just wonder how much of it is getting out to the LLDC's that we are truly worried about." And then his response was: If we start graduating, those very countries aren't going to get it anyway, that it is going to go—in his opinion—to Japan or Germany or Great Britain—that was not the purpose of GSP when it went into effect.

He also had said earlier that what the GSP program does is to allow us to evaluate not a country but the industry that is seeking GSP treatment. If there is no way to make this work so that there can be some form of country graduation that will allow those countries that really need the help to get the help—we are not opposed to countries that need help getting the help—but if there is no way to make that work, and if graduating countries in the administration's opinion is not going to redistribute the benefits to the remaining countries on the list, and they concede that, then we don't know why there is a reason to continue the program at all.

Senator CHAFEE. I suppose the answer is that in those statistics—and I don't have the statistics here before me, but apparently I said there that about 63 percent went to the top five countries?

Mr. KOPLAN. It is right in there. It ranges from 60 to 70 percent—right in there.

Senator CHAFEE. OK. Thirty-seven percent is going to, presumably, the poorer countries, so it seems to be that, rather than jettison the whole program, it can be reformed if you wish or changed to benefit—to eliminate the top ones who seemed to have—it is hardly reasonable for anybody who has visited Hong Kong to think of it as a lesser developed country, but, OK, you take them out.

Nonetheless, that doesn't mean that we should get rid of the whole program, as you recommend. What would you say to tighter restrictions on the program, on the top countries, say Taiwan, or Israel, or Hong Kong, or whatever it is? Those are developed countries. And then where are we?

Mr. KOPLAN. I think that the thrust of our testimony is that, if we could work together to tighten up in the areas that we are suggesting, short of termination, that would be an acceptable alternative to us. But there hasn't been any movement in that regard on the part of the administration. If anything, and again as I say—in reviewing the hearing record—when you got into the question, for example, of the competitive need limitation formula and how this new legislation, S. 1718, in effect makes it more discretionary—we don't see any tightening up taking place in S. 1718. What we see is more discretionary authority asked for by the administration and no recognition of the need to graduate either countries or products.

Senator CHAFEE. And finally, I think your requirement that there be sort of a certification that trade unions are permitted and so forth in the latter part of your testimony—that gets us into a lot of difficulties, I think, and I admire the goals, but I think trying to achieve that or have that certification—we are involved in one certification process now, and find it difficult enough, and I am not sure we want to get into another.

You don't call it certification. I don't know what terminology you use, but that puts us at a pretty tough standard, and I am not sure we—the administration—would want to get bogged down in.

Mr. KOPLAN. At the time the Caribbean Basin issue was being discussed and debated, we came in with some rather specific suggestions in those regards, and the human rights side—the definition that we had proposed was basically the one that is in the State Department's report and is universally accepted.

Senator CHAFEE. Is that in the CBI now?

Mr. KOPLAN. It was not incorporated in the CBI. No, Senator.

Senator CHAFEE. I see. OK, fine. Thank you.

Mr. NEHMER. May I, Senator?

Senator CHAFEE. Yes.

Senator DANFORTH. Go ahead, Mr. Nehmer.

Mr. NEHMER. Just a comment on this. In support of the idea of the graduation of these top three countries, at least. If we had GSP in 1950, Japan would have been a beneficiary developing country. And we have said to the administration several times: When would it have been convenient since 1950 to have removed Japan from the list of beneficiary developing countries? The way the administration has answered you on Korea, Taiwan, and Hong Kong is not a very satisfactory answer. And with regard to those top three, even though on an overall basis they may be providing, say, 60 percent of total GSP imports the percentage is much higher for leather-related products. From Taiwan, Korea, and Hong Kong alone, those three countries—we import 85 percent of our handbags, 82 percent of our luggage, 73 percent of our leather wearing apparel, 60 percent of the personal leather goods, and 60 percent of the work gloves. That is why we——

Senator CHAFEE. But that is not all under GSP.

Mr. NEHMER. No; very little of it is.

Senator CHAFEE. I think it is a little deceptive to give these startling figures, to recite the horrors of GSP when, indeed, there would be imports from these countries regardless of GSP, and there are currently. All that doesn't come under GSP.

Mr. NEHMER. No; but, Senator, you are dealing with very substantial tariffs on these particular products which could go to zero. We are at the mercy of the executive branch any time they accept a petition and grant acceptance of a petition. For instance as we mentioned in our testimony as in the case of Thailand, the duty on those plastic and rubber work gloves would have gone from 24 percent to zero. That is very significant in the pricing structure in the United States. So, that is why we are asking for the exclusion from GSP treatment in the statute the way you saw fit to do for textiles, apparel, and footwear—in regard to these other five products—the way it was done in the Caribbean Basin legislation.

Senator CHAFEE. Fine. Thank you.

Senator DANFORTH. Thank you.

Mr. KOPLAN. Thank you, Mr. Chairman.

Senator DANFORTH. Senator Heinz.

Senator HEINZ. Mr. Chairman, thank you. I have one last question for Stanley Nehmer, which has to do with the subject that Senator Chafee touched on—the assertion made and, to a certain extent, supported by the ITC study that if you graduate the newly industrializing countries that all the benefits just go forever to the Japans and the other developed countries.

What the ITC said, as I understand it, is that in the short run—for the first 1 or 2 years—that would probably be true. Does that also happen forever after?

Mr. NEHMER. No. I would say in these particular products, Senator, that these countries have been able to export most of the products without GSP treatment in very substantial quantities, so that with the statutory exclusion, what that does is to eliminate it once and for all, and we don't have to go to the time and expense—

which is very costly—to defend ourselves. Korea, Taiwan, and Hong Kong would still be able to export substantial quantities. I don't see a Japan taking over from the lower cost Taiwan or Korea and Hong Kong in this case.

Senator **HEINZ**. Would any of the benefits go to the four countries as a result of graduation, in the short or long term?

Mr. **NEHMER**. I would say, yes. I think that the industrial development of Korea and Taiwan, for example, has been markedly helped by receiving GSP, and assuming that those countries don't put in new subsidy—government subsidy—arrangements, which they are perfectly capable of doing—then these benefits should accrue to some of the lesser developed countries if these top countries are eliminated from GSP. Absolutely. From an economic point of view, it should.

Senator **DANFORTH**. Thank you very much.

Next, we have Mr. Samuels, Mr. Cohen, Mr. Liebenow, and Mr. Mullen.

Mr. Samuels.

## STATEMENT OF MICHAEL A. SAMUELS, VICE PRESIDENT INTERNATIONAL, U.S. CHAMBER OF COMMERCE, WASHINGTON, D.C.

Mr. **SAMUELS**. Thank you, Mr. Chairman. I am Michael Samuels, vice president International of the Chamber of Commerce of the United States. Accompanying me is Dr. Ava Feiner, our manager of the international policy department of the chamber.

The chamber is pleased to have the opportunity to support reauthorization of the GSP program for 10 years, with certain changes to enhance it as a tool for trade liberalization. We commend you, Mr. Chairman, for introducing S. 1718. We support the essential elements of this bill but recommend certain modifications. I will summarize my testimony and ask that the full text be included in the record.

Expanding the participation in the world trading system is an important goal, as it is part of a larger goal: national economic growth and world economic growth. We support the administration's goal of using GSP to negotiate greater market access for U.S. business. We also support authority for the President to waive competitive need limits for the least developed countries. However, we believe Congress should be able to anticipate and influence the negotiating objectives to be set in connection with the President's new authority to waive GSP limits for the advanced countries. Consequently, we call for safeguards on the use of this authority.

We have supported the original decision to offer nonreciprocal tariff preferences to developing countries. This was based on a conviction that their economic development was best brought about by drawing them into the trading system rather than sending them increasing amounts of aid. Our support also reflected our recognition of our vital strategic interests and the emergence of these countries as dynamic trading partners in stable societies.

Among other things, it is in our self-interest to consider carefully the effects that our trade policies, including GSP changes, will have on the health of the markets of developing countries. U.S. trade policy should be geared both to enhance the benefits to developing countries of our economic recovery and to further the tough IMF adjustment programs, not contradict them.

The stimulus of U.S. recovery and the discipline of adjustment plans can work only if we maintain or, better yet, expand their access to our markets. Unless they are permitted to earn their way out of debt, we will lose large chunks of our export sales.

We see the GSP issue as part of a call for fair trade. Thus the GSP can be used to set a framework for removing barriers to trade and investment with developing countries.

However, we would caution against using the GSP lever to curtail access to our markets based on unrealistic for trade concessions. The chamber's specific recommendations on the provisions of S. 1718 are laid out in our testimony, and we include concern for such things as realizing that developing countries are an expanding market for U.S. exports, a country's commitment to provide adequate protection of intellectual property rights, as well as afford market access, and the avoidance of adverse impacts on U.S. firms and workers.

In summary, Mr. Chairman, the generalized system of preferences program helps open avenues of commerce between the United States and the developing world, fosters trade expansion and liberalization, and can be made to do even more. Renewing the GSP is also important for political relations of the countries with the southern part of the world. We strongly recommend that Congress not permit the GSP program to lapse in early 1985, but rather this year approve S. 1718 with the important changes we have recommended. Thank you.

Senator DANFORTH. Thank you. Mr. Cohen.

[The prepared statement of Michael A. Samuels follows:]

# STATEMENT
on the
# GENERALIZED SYSTEM OF PREFERENCES (GSP) RENEWAL ACT (S. 1718)
before the
SENATE FINANCE COMMITTEE
for the
CHAMBER OF COMMERCE OF THE UNITED STATES
by
Michael A. Samuels
Janaury 27, 1984

I am Michael A. Samuels, Vice President, International, of the Chamber of Commerce of the United States. Accompanying me is Dr. Ava Feiner, the Chamber's Manager, International Policy Department. The Chamber is pleased to have the opportunity to support reauthorization of the Generalized System of Preferences, or GSP, program for ten years, with certain changes in the program. We commend Senator Danforth for introducing S. 1718, a bill that reflects the Administration's proposal to renew the GSP for ten years and make certain changes to enhance it as a tool for trade liberalization. The Chamber supports the essential elements of S. 1718, but recommends certain modifications.

The GSP program, authorized in the 1974 Trade Act, supports development and trade expansion by permitting the duty-free entry of certain imports from designated developing countries. It reflects an agreement by the major developed countries to support the economic development of less advanced countries by offering them non-reciprocal tariff preferences. The U.S. program expires in January of 1985. Eighteen other major industrialized countries have similar programs. All but the United States and Canada have renewed their programs, and Canada is expected to renew early this spring.

The Administration has asked for a ten-year renewal of the GSP and for changes in the President's authority under the program. These changes would afford the President clear authority to use his power as a negotiating tool to obtain commitments for fair and equitable market access from the more advanced developing countries, such as South Korea and Taiwan. This is achieved in S. 1718 by specifically empowering the President to 1) tighten the "competitive need limits" -- limits on the amount of a product that can be imported duty-free under GSP from a beneficiary country -- on highly competitive imports from a country, and 2) to waive entirely these limits when the country makes trade concessions. In short, his powers are to be used as a stick and carrot respectively to negotiate for greater market access.

We support the GSP and the Administration's goal of using it to negotiate greater market access for U.S. business. We also support a provision in the bill authorizing the President to waive competitive need limits for the least developed countries. However, we believe Congress should be able to anticipate and influence the negotiating objectives to be set in connection with the President's new authority to waive or increase GSP limits for the advanced countries. Consequently, we call for safeguards on the use of this authority. Safeguard options include public hearings and Congressional consultations, Congressional approval of general GSP-related negotiation objectives, or Congressional approval of legislation to implement the results of negotiations related to the waiver of competitive need limits for countries other than the most poor through "fast-track" procedures, such as those specified for legislation implementing non-tariff barriers agreements in the 1974 Trade Act. We also recommend that the bill make clear that highly import-sensitive goods will be kept off the GSP list, and therefore not become a subject of GSP-related negotiations.

At the same time, it is equally important that the particular economic conditions of GSP beneficiaries -- such as large debt or the need to make structural adjustments to correct persistent current account deficits -- be weighed heavily in the President's consideration of whether to "graduate" their products to tighter competitive need limits.

Before enunciating our recommendations on S. 1718, I want to comment on the objectives of the GSP program, as well as its benefits and economic context today. The original decision of nineteen developed countries to offer non-reciprocal tariff preferences to developing countries was based on a conviction that their economic development was best brought about by drawing them into the trading system, rather than simply sending them increasing amounts of aid. It also reflected the recognition that the free market countries of the world have a vital strategic interest in the emergence of these countries as dynamic trading partners and stable societies.

The rapid growth of many of the more advanced developing countries, often referred to as "NICs" for "newly industrialized countries," through the decade of the seventies testifies to the merits of the trade development idea behind the GSP program. Our trade and investment relations with GSP beneficiaries, such as South Korea, Taiwan, Hong Kong, and Singapore, have wrought large mutual benefits in the form of booming economic growth for them and burgeoning exports and investment markets for us.

The emergence of the NICs as a major force in international commerce has been particularly rewarding for the United States. While it is true that, in certain sectors, their products challenge our industries -- thereby forcing us to sharpen our competitive edge -- at the same time, their newly awakened markets are a vibrant source of demand for U.S. products and investment. Indeed, all the developing countries have long been America's fastest growing market. It is in our self-interest to consider carefully the effect that our trade policies, including any changes to our GSP program, will have on the health of those markets. We cannot expect those markets to grow if we cut off their sources of foreign exchange.

The GSP is no substitute for an open trading system. Barriers to trade and investment in developed and developing countries alike must be challenged head on. But the GSP is an important, though small, outpost on the frontier of movement toward worldwide trade liberalization. True, as currently structured, the trade liberalization due to the GSP is one-way. Still, it serves as a starting point for building a two-way street. It would be a mistake to use it to retreat to a more closed system. As the 1983 IMF Annual Report notes, restrictions on the exports of developing countries most penalize those who have liberalized their economies and adopted an outward-looking growth strategy.

The GSP program still works to draw developing countries into the international trading system. It is not simply that GSP encourages liberalization, or can be used, as S. 1718 proposes, to prod certain developing countries into greater adherence to trade rules. Trade relations enabled by GSP serve to develop commercial ties that in time can foster trade flows both ways. American companies that have learned about the business ways of a country in the course of buying from it have an advantage in selling to it. Since business inexperience in world markets can be one of the greatest obstacles to our export growth, overseas contacts opened by GSP-induced trade can indirectly improve U.S. export performance.

U.S. export opportunities also rise directly as the dollars earned here by GSP beneficiaries build their domestic markets and pave the way for growing demand for American exports. This simple truth is particularly important to bear in mind at a time when large debt and the worst worldwide economic recession since the Great Depression have left many developing countries seriously short of the foreign exchange necessary to service their debt and meet their basic import needs.

Growth in the merchandise export volume of non-oil developing countries slid from an average of 9% during the years between 1976-1980, to 6% in 1981 -- and then abruptly dropped to less than 1% in 1982. Losses were even greater for the more advanced developing countries -- who would lose most from curtailment of GSP -- as their merchandise export volume growth rate plunged from the 12% annual heights of the seventies to negative 2 1/2% -- that is, a 2 1/2% contraction -- in 1982. Even so, volume trends were less of a problem than sharply declining terms of trade, as import prices for developing countries rose at the same time export commodity prices fell and the dollar appreciated greatly. All the while, high real rates of interest persisted compounding debt problems as countries borrowed dearer dollars to pay interest on the cheaper ones they had borrowed earlier.

Since exports account for about one-sixth of the output of non-oil developing countries, the trade loss has played an appreciable role in shrinking their collective annual growth rate from the 6% typically experienced during the seventies to a mere 1 1/2% in 1982. To make matters worse, growth in domestic demand in developing countries all but ceased in 1982, whittled down from 6% growth in 1978.

This year prospects for the beginning of a worldwide economic recovery led by the robust growth in the United States help to brighten the picture for developing countries. Also the increase in the International Monetary Fund (IMF) capital subscription should set the basis for adjustment programs to redress their financial imbalances. But for many, the road to recovery is pitted and long.

U.S. trade policies should be geared to enhance the benefits to developing countries of our economic recovery and the tough IMF adjustment programs, not contradict them. The stimulus of U.S. recovery and the discipline of adjustment plans can work only if we maintain -- or better yet, expand -- access to our markets for developing countries.

Countries that have taken on the social burdens of adjustment programs in order to put their financial houses in order, must reduce all but the most necessary imports and boost their capacity to earn foreign exchange. It would be short-sighted to devise trade policies that press on them non-essential imports, and at the same time, close off markets to them. They should not be expected to borrow their way through their debt-service problems -- a foolish approach even if international lending was not falling off sharply. They must earn their way out. Unless they do, we will lose large chunks of our export sales, just as we lost some $17 billion of our sales to Latin American debt problems over the last two years, a loss that cost us some 400,000 jobs.

In this context, gutting the GSP program, or using it to exact unrealistic trade commitments from countries with crippling debt or deficits, would compound everyone's economic problems, while not really solving our own. Further, as these kinds of economic troubles can readily lead to social unrest, U.S. actions that ignore or even exacerbate these troubles endanger our strategic interests in the stability of friendly governments.

The GSP program is a positive force in moving toward greater trade liberalization, and can be made more effective by using it to establish a framework for removing impediments to trade and investment with developing countries. However, we would caution against turning the GSP into a tool for curtailing developing countries' access to our markets based on unrealistic demands as to how much change financially-strapped countries can or should bring about in a short time. The Chamber's specific recommendations on the provisions of S. 1718 are as follows:

## Ten-Year Renewal of GSP

The Chamber supports the ten-year extension of the GSP authorized by S. 1718 and recommends that at the end of five years the President report to the Congress on the operation of the program.

## GSP Eligibility Factors

The bill identifies certain factors, which are listed in Sections 501 and 502(c) of the 1974 Trade Act, the President should take into account in making determinations on GSP eligibility and competitive need limits. It also adds to the list a country's competitiveness in a product. The Chamber supports this addition and recommends that three other factors be added: first, the ability of the United States to take advantage of the fact that developing countries provide the fastest growing markets for U.S. exports, an objective that is listed as a purpose of the bill in Section 1; second, a country's commitment to provide adequate protection of intellectual property rights, as well as afford market access; third, avoidance of adverse impacts on U.S. firms and workers.

## Authority To Lower Competitive Need Limits

Section 4 of the bill specifies that the President has the authority to apply more stringent (i.e., lower) competitive need limits to countries that have demonstrated relative competitiveness concerning an article. This provides the President with leverage to obtain increased, or ensure continuing, market access, and it could be an important authority in helping to turn trade liberalization under GSP into a two-way street.

We support this authority, but recommend that the President be required to consider the specific economic circumstances of the beneficiary country that he is considering for product graduation, weighing heavily, for example, its financial or foreign exchange position and its current ability to grant broad trade concessions.

Nor should the GSP benefits for countries competitive in a product be limited primarily for the benefit of their competitors from foreign developed countries. Therefore, the test the President applies to determine whether to lower competitive need limits for a country's product should involve two-steps. First, the country's competitiveness in the product relative to the same or similar product produced by other *developing* countries, should be the determined. Second, the country's product competitiveness relative to *foreign developed* country producers should be determined. Only when the relative competitiveness of the GSP country for a product is established for *both* developing and developed country competitors should the more stringent competitive need limits be applied.

## Waivers of "Competitive Need Limits"

Section 4 also authorizes the President to waive competitive need limits for any article from any beneficiary country upon determination that the waiver is in the U.S. economic interest, based on his consideration of the factors listed in Sections 501 and 502(c) of the 1974 Trade Act. However, great weight is to be given to the factor of whether the beneficiary country has assured the U.S. that it will provide equitable and reasonable access to its markets. Other factors included in those sections are the effect of duty-free treatment on the development of the beneficiary, comparable GSP-type efforts by other developed countries, the impact of duty-free treatment on the United States, the interest of the beneficiary in duty-free treatment, the beneficiary's development level, and the beneficiary's assurance of access to its commodity resources.

This is a controversial section because it grants the President broad authority to waive entirely the competitive need limits for a product based on his consideration of the listed factors. However, by stressing the consideration of assurances to provide market access, the waiver is made into leverage for exacting commitments that could enhance and protect U.S.

commercial opportunities abroad.

We agree that the waiver authority is necessary to create bargaining leverage to induce certain developing countries to open their markets, and that if used realistically, GSP benefits can be an effective tool for expanding North-South trade and investment opportunities. But to ensure that the waiver authority does not conflict with other U.S. objectives, we recommend that it be modified in the following ways:

First, the law should specifically exclude any waiver for products that have been found to be import-sensitive.

Second, the President should be required to consider the particular economic circumstances of the beneficiary country, for example, its need to earn foreign exchange to address serious financial imbalances and its ability to grant trade concessions consistent with a financial adjustment program.

Third, the statute should specify the types of market access concessions by GSP beneficiaries that the President would consider in making his determination to waive competitive need limits on a product. The statute should cite examples, but they should not be exclusive.

Fourth, any waiver for other than the poorest countries should be made subject to safeguards. Options include: public hearings, consultations with Congress on negotiating objectives, granting specific negotiating authority in connection with the use of such waivers, or providing for Congressional approval of legislation to implement the results of waiver-related negotiations through "fast-track" legislative procedures, such as those specified in Sections 102 and 151-153 of the 1974 Trade Act.

Finally, the statute should specifically include the protection of intellectual property rights, a fundamental protection essential to the conduct of international business, as a consideration to be heavily weighted along with market access in waiver decisions.

## Exclusion of Least Developed Countries From Competitive Need Limits

Section 4 also waives the competitive need limits for the least developed countries, as determined by the President and based on the factors listed in Sections 501 and 502(c). We agree that competitive need limits should be waived for the least developed countries, but recommend that the President be asked to provide information on the criteria that will be applied in determining what is a least developed country, and indicate which countries are likely to be so classified.

## Content Requirements

Under the current law, duty-free treatment applies only if the beneficiary provides not less than 35% of the appraised value of the article. To encourage additional U.S. content, value added in the U.S. should be counted toward this 35% requirement.

## Conclusion

The Generalized System of Preferences program helps open avenues of commerce between the United States and the developing world, fosters trade expansion and liberalization, and can be made to do even more. It should represent an outpost on the frontier of progress toward an open trading system, not a pivotal point from which to reverse course. Renewing the GSP is also important for our political relations with nations of the South. We strongly recommend that Congress not permit the GSP program to lapse in early 1985, but rather this year approve S. 1718 with the important changes we have recommeded. We appreciate your attention to our views.

## STATEMENT OF CALMAN J. COHEN, VICE PRESIDENT, EMERGENCY COMMITTEE FOR AMERICAN TRADE, WASHINGTON, D.C.

Mr. Cohen. Thank you, Mr. Chairman, for this opportunity to present the views of the Emergency Committee for American Trade. Members of ECAT are the chairmen of major U.S. corporations with substantial overseas business interests.

We are strong supporters of the Generalized System of Preferences. The system is critically important to the developing countries, particularly in light of the financially precarious situation of a number of them. The system has great importance to the maintenance of Third World economic and political stability. The program also benefits the United States. We recognize that the developing world now constitutes the fastest growing market for U.S. goods.

In short, by fostering the economic health of Third World countries, the GSP system serves well U.S. international economic and political interests.

We make a number of suggestions for improvement in the program. The first concerns the allocation of benefits under GSP. We believe there is a need to encourage the partial shifting of some of the benefits from the most to the least developed of the developing countries. Several options should be considered. One would be to allow greater flexibility in the application of competitive need limitations to the least developed of the developing countries. Another would be to raise the de minimus level on items from the least developed of the developing countries which do not threaten to harm U.S. industries.

A second area in which the GSP system to requires improvement is in addressing developing tariff and nontariff barriers to trade in goods and services and investment. While it is unrealistic to expect countries undergoing development to be in a position to eliminate all such barriers, it is reasonable to expect the gradual liberalization of those barriers in the more advanced of the developing countries. ECAT believes that market access should be considered as a more important factor than it has been to date in making decisions on appropriate levels of GSP benefits for the richest developing countries.

We are most concerned, for example, and, that three of the most advanced developing countries—that account for nearly one-half of all GSP imports into the United States—discriminatorily tax of virtually exclude from their markets American cigarettes, as Senator Warner has pointed out. Citizens possessing an American-made cigarette are subject to a fine and/or imprisonment in South Korea.

A third area in which the GSP system requires improvement is in addressing serious trade-distorting practices—such as domestic content and export requirements—which are multiplying. The record of developing countries, especially the more developed among them, on the protection of intellectual property rights and the reduction of trade-distorting practices must be taken more into account in making decisions on the granting of benefits. Thank you.

Senator Danforth. Thank you. Mr. Liebenow.

[The prepared statement of Calman J. Cohen follows:]

# STATEMENT OF CALMAN J. COHEN, VICE PRESIDENT, EMERGENCY COMMITTEE FOR AMERICAN TRADE, BEFORE THE SENATE FINANCE SUBCOMMITTEE ON INTERNATIONAL TRADE HEARING ON THE GENERALIZED SYSTEM OF PREFERENCES RENEWAL ACT OF 1983

S.1718

FRIDAY, JANUARY 27, 1984

Mr. Chairman:

Thank you for the opportunity to present the views of the Emergency Committee for American Trade (ECAT) on S.1718, a bill to renew and revise the U.S. Generalized System of Preferences (GSP) which is scheduled to expire in January 1985.

The members of ECAT are large United States firms with substantial overseas business interests. The 1982 worldwide sales of ECAT member companies totaled about $700 billion. In the same year, they employed over five million workers.

The GSP system assists the development of third world countries by providing duty-free access to the U.S. market, subject to appropriate limitations. The foreign exchange earnings generated from exports assist third world countries in meeting their debt servicing requirements and the exports themselves result in increased production and employment.

The GSP system is critically important to the developing countries, particularly in light of the financially precarious situation of some of them. The system has great importance to the maintenance of third world economic and political stability.

ECAT has long been a supporter of the GSP program. Members view it as one of the best ways to assist the economic development of the less-developed countries and to further the integration of developing countries into the international trading system. As the standard of living in beneficiary countries rises -- in part due to the tariff preferences received under the U.S. GSP system and similar programs instituted by other OECD nations -- the developing countries will be in a better position themselves to shoulder their share of the responsibility for promoting global trade. They will be better customers for U.S. exports. Already the developing world constitutes the fastest growing market for U.S. goods. Nearly 40 percent of all U.S. exports are currently purchased by the developing countries. In short, by fostering the economic health of third world countries, the GSP system well serves U.S. international economic and political interests.

We recognise that competitive imports benefiting from the GSP system can cause difficulties for domestic producers, and are pleased to note that a recent study of the GSP system by the International Trade Commission found, among other things, that existing safeguard provisions protect such producers.

## IMPROVEMENTS TO THE PROGRAM

### Reallocation of Benefits

The bulk of benefits under the program go to a relatively limited number of the most advanced of the developing countries. Changes in the GSP program, therefore, appear to be called for in order to encourage the partial shifting of some of the benefits to the least developed of the developing countries. The partial reshifting of the program, however, should not be done in a precipitate fashion which would cause additional problems for developing countries currently facing severe debt servicing difficulties.

Several options should be considered, including:

-- allowing for greater flexibility in competitive need limitations for the least developed of the developing countries. While these limitations are designed to ensure that a nation does not receive continued preferential tariff treatment on an item on which it has become competitive, the limitations should not be imposed in an inflexible fashion on the poorest countries.

- raising the de minimus level on items from the least developed countries which do not threaten to harm U.S. industries. The competitive need limitations should apply above a higher dollar level than they now do.

Graduation or the removal of countries from GSP eligibility can also be used to help effect the wider distribution of benefits. Care must be taken, however, that graduation not be used as a tool simply to frustrate the purpose of the overall GSP program.

## Reduction of Unnecessary Developing Country Tariff and Non-tariff Barriers to Trade in Goods and Services and Investment

Tariff and non-tariff barriers frequently block access of U.S. firms to developing country markets. While it is unrealistic to expect countries undergoing development to be in a position to eliminate all such barriers, it is reasonable to expect the gradual liberalization of those trade, services and investment barriers in the more advanced developing countries which have been the major beneficiaries of the GSP system. Certainly, such countries should not raise discriminatory barriers to otherwise highly competitive U.S. products.

ECAT believes that market access should be considered as a more important factor than it has been to date in making decisions on appropriate levels of GSP benefits, especially for the richest developing countries. We are most concerned, for example, that three of the most advanced developing countries -- South Korea, Taiwan and Hong Kong -- that account for nearly one-half of all GSP imports into the United States virtually exclude American cigarettes from their markets. In South Korea, citizens possessing an American-made cigarette are subject to a fine and/or imprisonment. Certainly such actions should be taken into account in deciding GSP benefits.

## Protection of Intellectual Property Rights and Reduction of Trade-Distorting Practices

Similarly, we recommend that U.S. officials administer the GSP program in a manner that will assist the protection of copyright, patent, and other U.S. intellectual property rights in the developing countries.

We are concerned too that serious trade-distorting practices, such as domestic content and export requirements, are multiplying in the less developed countries.

ECAT believes that the record of developing countries, especially the more developed among them, on the protection of intellectual property rights as well as on trade distorting practices, should influence decisions on the appropriate level of GSP benefits.

## CONCLUSION

ECAT strongly supports the extension of the System of Generalized Preferences. The benefits of GSP accrue to the developing world as well as to the United States. Wealth is created through the generation of production and jobs here at home and abroad. Safeguard provisions protect domestic U.S. industries from harm.

Improvements need to be made in the GSP system to improve the distribution of benefits in the developing world through shifting benefits from the most to the least developed. This should be done in a gradual fashion so as not to disrupt development programs in place. Competitive need limitations should be imposed somewhat flexibly on exports from the poorest countries, which should also benefit from an increase in the de minimus level. Especially in the case of the most developed countries, decisions on the provisions of GSP benefits should take into account a country's record on the treatment of investment, the protection of intellectual property rights and the liberalization of trade distorting practices such as domestic content, export performance requirements and the exclusion of such U.S. products as cigarettes from their markets.

## STATEMENT OF LARRY LIEBENOW, ADVISORY BOARD MEMBER, ASSOCIATION OF AMERICAN CHAMBERS OF COMMERCE IN LATIN AMERICA, WASHINGTON, D.C.

Mr. LIEBENOW. Thank you, Mr. Chairman. I am Larry Liebenow, president of NORTEX International and an advisory board member of the Association of American Chambers of Commerce of Latin America, which represents U.S. investment throughout Latin America. And I have just returned from living in Latin America during the past 15 years.

We appreciate the opportunity to present some observations on GSP. AACCLA totally supports the extension of GSP because we believe it to be an economic and strategic interest to the United States. GSP helps Latin America's ability to purchase U.S. products. It helps Latin America to meet its debt servicing requirements. The U.S. economy benefits by access to newly developed imports at competitive prices, and GSP contributes to our strategic interests by promoting the Latin American private sector, economic development, political and social stability, and inter-American cohesion.

We would like to point out some observations, however, with respect to the implications of GSP for Latin America. Many products are excluded because of import sensitivity, which originates from other regions, other than Latin America. Origin requirements adversely affect many Latin American countries because of their proximity to the United States, and as a result, discriminate against products with U.S. content. We believe that graduation and reciprocity are inappropriate for Latin America. Graduation is premature versus Latin America's development stage. The severity of the current economic crisis in Latin America is so dangerous that it would be inappropriate to remove GSP benefits or demand additional market access which, in any case, would now be theoretical because of lack of foreign exchange.

Based on the foregoing, in our written testimony, we have made specific suggestions, the most important of which are that the provisions allowing the President to waive competitive need limits depending on reciprocity should be more precise in the consideration of other very important factors such as foreign exchange and bilateral trade balance. That we not require developing countries import systems to be as open as ours. The deletion of the proposal to reduce the competitive need limit. That the definition of the least developed countries, for which a waiver of competitive need may be made, should refer to the ability of the country to compete in the U.S. market and not simply to utilize the U.N. list. That U.S. content be included for the purpose of meeting origin requirements. The increase in product coverage for particular groups of countries. The extension of the period between product review in order to promote investment in more uncertain environments.

GSP is important to this hemisphere at this critical time. It should be expanded and not cut back.

Senator DANFORTH. Thank you. Mr. Mullen.

[The prepared statement of Larry Liebenow follows:]

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Statement
on the
U.S. Generalized System of Preferences
before the
Subcommittee on International Trade
of the
Committee on Finance
United States Senate
by
Larry Liebenow
Advisory Board Member
Association of American Chambers of Commerce
in Latin America
January 27, 1984

Regional Vice Presidents: Larry Liebenow, Mexico, Harlow F. Newton, Jr., Central America, Charles A. Francik, Brazil and Paraguay, A.W. Von Hartz, Bolivia, Chile, Colombia, Ecuador, Peru and Venezuela, Stanley A. Brons, Argentina and Uruguay, Marcelino San Miguel II, Caribbean

I am Larry Liebenow, an advisory board member of the Association of American Chambers of Commerce in Latin America (AACCLA). Our Association is comprised of 21 American chambers of commerce which represent 16,000 U.S. and local firms and businessmen throughout Latin America. We appreciate the opportunity to share our views with you on the important subject of the renewal of the U.S. Generalized System of Preferences (GSP).

At the start, we want to compliment the Administration for developing a creative proposal for GSP renewal. This proposal has many positive aspects, and I will comment on them specifically in my testimony.

I also want to commend your subcommittee for having been so instrumental in passage of the Caribbean Basin Initiative (CBI). Your efforts, Mr. Chairman, and those of your colleagues, to promote the expansion of trade and continue progress toward a more open trading system are well known and appreciated throughout Latin America and the Caribbean, and particularly among American chambers.

We anticipate that virtually every aspect of GSP will be criticized during these hearings. Some criticism will come from a free trade viewpoint Some will characterize the system as inadequate; some will characterize it as overly generous. We hope some of this criitcism will be constructive; we fear much of it will not be.

AACCLA is here to go on record clearly expressing support for an extension of GSP. AACCLA's objectives in testifying are to make note of the benefits of GSP to both the United States and Latin America, to debunk some of the myths concerning the current program, to explain why the concepts of graduation and reciprocity should not be applied to Latin American countries at the present time, to point out some strengths and shortcomings of the GSP system from Latin America's viewpoint, and to comment on the Administration's proposal.

## Benefits to the United States and Latin America

There are four major catagories of benefits to the United States from GSP.

First, GSP benefits the United States principally by increasing Latin America's ability to purchase U.S. products. Latin America is the largest market for U.S. products among all developing country groups. In 1982 Mexico alone was the third largest market for U.S. exports. And despite recent cutbacks in Latin American imports due to the financial crises affecting several countries, once the world recession abates, the United States will undoubtedly regain the healthy surplus in overall merchandise trade with the region it traditionally has maintained.

Second, the foreign exchange Latin American countries earn from their exports to the United States enables them to service their substantial debts to U.S. banks. Market opportunities for Latin exports are important to the maintenance of the health of some major U.S. banks, and to the health of the U.S. banking system itself. If Latin America cannot repay its debts, our own banking system will encounter serious problems.

Third, the U.S. economy as a whole benefits from GSP since cheaper imports have a salutory effect in stimulating competition and restraining inflation. Moreover, cheaper imports of intermediate goods improve the competitive posture of final U.S. products both in our own market and abroad. We would not overemphasize the importance of these imports in view of their small percentage of overall U.S. imports. On the other hand, there is little evidence that GSP has injured specific U.S. industrial or agricultural producers.

Finally, GSP contributes to achieving United States foreign policy objectives by strengthening the inter-American system. The economic growth which it stimulates will, in the long run, be the most effective antidote to extremist political regimes likely to be hostile to U.S. interests. In the short run, it helps build goodwill in the hemisphere.

The benefits to Latin America from GSP are clear. Other factors being equal, GSP gives imports from beneficiary countries a competitive edge over imports from other, non-GSP competitors. While the margin of preference GSP provides may be small, it has been important in enabling nascent industrial sectors of Latin America to compete in the U.S. market. We believe many Latin American exports of manufactures have benefitted from such a GSP "boost." By encouraging industrialization, GSP contributes to economic growth and political stability.

## Misconceptions About GSP

Many misconceptions surround GSP and these probably are at the foundation of most criticisms of the program.

GSP does not have a significant impact upon the U.S. economy. Duty-free GSP imports account for only a little more than 3 percent of total U.S. imports. Duty-free GSP imports from Latin America account for only one percent of total U.S. imports. Moreover, GSP imports are only a small percentage of total U.S. duty-free imports. In 1982, of the $14.0 billion duty free imports from Latin America, only $2.6 billion entered duty free under the GSP program.

It is not accurate to portray GSP as a "give-away" program. Because of their stronger bargaining position, U.S. importers gain a greater portion of the duty savings from GSP than do producers and exporters in the developing countries. It is reasonable to assume that to improve their competitive edge, importers pass on at least some of these savings to intermediary and end-users of their products in the United States. The result is an increase in our standard of living and lower prices as well.

GSP is not foreign aid. The budgetary consequences are insignificant from exempting Latin GSP imports from duties. Nevertheless, it is an effective form of development assistance. By relying upon the normal incentives of the market, it stimulates business activity through trade opportunities.

Our direct bilateral assistance programs have been cut back, and in some cases terminated, in recent years in almost all countries outside the Caribbean Basin. As a result, GSP has become a substitute for direct aid as a result. In some ways it is an inadequate substitute since it does not directly promote such essential activities as infrastructure development and education, for example. Over the long run, however, if the program is extended and allowed to work, it will contribute more to putting beneficiary countries on the path to self-sustained growth than anything else we can do.

GSP imports also do not affect U.S. producers of competing products significantly more than do non-GSP imports of identical merchandise. The average tariff paid on dutiable imports of products which compete with GSP eligible products from beneficiary countries will decline to approximately 4 percent when tariff reductions negotiated during the Multilateral Trade Negotiations are fully implemented. Thus the margin of benefit from GSP is small. Moreover, due to congressionally mandated exclusions and USTR's petition procedure to remove "import sensitive" products from eligibility for GSP, such imports do not receive preferential treatment. Rule of origin requirements and competitive need exclusions further reduce any possibility that GSP might injure U.S. industries. The fact that so few petitions to remove products from GSP have been filed with USTR is clear evidence that GSP imports are not creating significant problems for U.S. producers of competing products. The 1983 USITC report reviewing the operations of GSP did not indicate that there were any significant amount of import sensitive imports under the program.

## Positive and Negative Aspects of GSP from a Latin American Perspective

AACCLA would like to compliment some specific aspects of the administration of the program by USTR and the U.S. government interagency committee that oversees the program.

1) The simplicity of the U.S. system makes it easier to use than other countries' systems.

2) The existence of an information center in USTR helps Latin Americans to obtain data and other information necessary to participate in the program as well as to prepare briefs and submissions for periodic GSP product reviews.

3) Support provided by the U.S. Government helps to educate exporters in Latin America about opportunities created by the program, especially exporters in the lesser developed countries of the region.

4) The annual GSP review offers opportunites for all sides to petition for changes in the system. Changes are implemented in an orderly way and on a predictable time schedule.

All these aspects of the system should be retained. In some other ways, however, the current GSP system operates inequitably with respect to Latin America. These include: limited product designations, investor insecurity caused by product removals, and inappropriate competitive need and rules of origin exclusions:

1) Many products of interest to Latin America, particularly of the lesser developed countries in the area, are not included in the system despite the fact that imports from other areas are the cause of alleged import sensitivity.

2) Lack of certainty that duty free treatment will be maintained inhibits investment necessary to take advantage of the market access GSP creates. Although the petition system is administered in an orderly way, the fact remains that products can be removed from eligibility without meeting tests such as proving injury to U.S. producers.

This lack of certainty is compounded by the removal of products from eligibility when they exceed competitive need limits or are subject to escape clause injury findings and by discretionary "graduation."

(3) The automatic operation of competitive need exclusions affects Latin America more than other regions. In 1982, more imports from Latin America -- $2.4 billion -- lost GSP status under competitive need exclusions than actually entered under the system from Latin America -- $2.2 billion.

4) Finally, origin requirements adversely affect Latin American products more than those from other regions. In view of the proximity of Latin America to the United States and the importance of U.S. investment in the region, many exports from Latin America contain a large percentage of United States content. Since current origin requirements do not credit American content, for eligibility purposes, many otherwise eligible imports from the region do not benefit from GSP for this reason. This creates the anomalous situation wherein products with a high percentage of U.S. content are assessed either full duty or duty on the value added while competing products, often incorporating little or no American content enter duty free. This often means that products from the Far East with no U.S. content enter with a competitive advantage

over Latin American imports assembled from U.S.-produced components. The adverse effects on Latin America is evidenced by the fact that mainly due to their factor, only about 63 percent of otherwise eligible products enter duty-free from Latin America compared to 83 percent for all beneficiaries.

Because of these factors, the $2.2 billion of goods imported into the United States from Latin America duty-free under GSP in 1982, represented only about 10 percent of total U.S. dutiable imports from the region.

## "Graduation" and "Reciprocity" are Inappropriate for Latin America

AACCLA believes it is inappropriate to apply to Latin America either more stringent "graduation" criteria than is now the case or notions of reciprocity.

A. Latin American industrial production remains generally uncompetitive with that from developed, and even certain other developing, countries. Graduation is premature.

B. While some areas of the larger Latin American nations can be considered "industrialized" (for example, northern Mexico and southern Brazil), graduation of an entire country on such a basis would unfairly and unwisely eliminate from eligibility the underdeveloped sections of these nations. Per capita incomes of Latin American countries are far below those of industrialized countries.

C. Brazil and particularly Mexico have already experienced a disproportionately high amount of graduation under the automatic operation of the competitive need limitation of the program. In fact, Mexico's competitive need exclusions in 1982 of $1.5 billion dollars far exceeded the $600 million which benefitted from GSP.

D. The nations of Latin America are suffering from severe economic difficulties at this time and should not be subjected to further stresses. Increased foreign exchange earnings are an important component of the revival of economic health in the region.

E. It is counterproductive to both U.S. and Latin American interests to reduce access to the U.S. market through reductions of GSP benefits or to demand increased access to their markets. Reciprocal concessions would drain scarce foreign exchange needed to service existing debts and reduced access to the U.S. market will cut back foreign exchange earnings. Mexico and Brazil are the largest debtors to the United States banking system.

F. Other industrialized countries have renewed their GSP programs without seeking reciprocal concessions. It would be inconsistent with concepts of international burden sharing for the United States to unilaterally demand them. Moreover, the GATT "exception" for trade preferences to developing countries is based upon the premise that they will be extended on a "non-reciprocal" basis as other countries have done.

G. Since there are no agreed-upon criteria for discretionary graduation, the application of this concept could become a political football and the GSP program could be effectively restructured in ways inconsistent with congressional intent.

## The Administration Proposal

Let me now turn to some specific aspects of the Administration proposal. Overall, we believe it is a creative proposal and offers the possibility for an improvement and expansion of our GSP.

Many laudable objectives for GSP are contained in the bill's statement of purposes but are not included in the operational sections of the bill. These deserve even more emphasis. Accordingly, we propose that the following objectives be incorporated into the operational provisions of the bill, specifically Section 501. These include:

(a) the necessity to take advantage of the fact that developing countries provide the fastest growing markets for U.S. exports;

(b) the necessity to recognize that a large number of developing countries must generate sufficient foreign exchange earnings to meet international debt obligations; and

(c) the necessity to promote the notion that trade is a more effective development tool.

The current proposal contains provisions allowing the President to waive competitive need limits depending on the degree to which the country provides equitable and reasonable access to U.S. imports. This waiver flexibility is particularly significant, since as I noted earlier, (as) more Latin American trade has been excluded from GSP as a result of this limitation than enters duty free under the program. In deciding whether to waive the competitive need limits, the President should be directed to give particular weight to such considerations as the foreign exchange situation of the beneficiary country, our bilateral balance of trade with the country, the country's importance as an market for U.S. products, and the effect of the loss on GSP on the competitive position of the country vis-a-vis developed country suppliers and other developing country suppliers at the same level of development. In addition, the President should also consider the effect of failing to grant a waiver on the competitive position of U.S. industrial users and the price and inflation consequences for U.S. consumers.

In determing whether reasonable and equitable access is being provided, the President should not require a developing country's import regime to be as open as our economy, particularly in view of the current foreign exchange situations of many of these countries. In allocating scarce foreign exchange, these countries should not be forced to choose between their own determination of their priorities and the desire of U.S. producers to sell in their markets.

There is also a provision in the Administration's proposal to reduce the competitive need limit to $25 million and 25 percent of total imports (from the current $50 million and 50 percent) for products where a developing country is competitive in the product. We are concerned that without clearly defined guidelines for this determination, this provision may be applied arbitrarily. We recommend it be deleted. If this provision remains in the bill, it should be clearly limited to those cases where such graduation would clearly help a lesser developed country enter the market and not simply favor developed or other advanced developing countries or deny duty free treatment to the benefit of no one.

The bill provides for a waiver of competitive need limits for the least developed countries (LLDC's). However, there is no definition of what constitutes a least developing country. We recommend a definition be developed that takes into account the ability of a country to compete in the U.S. market. There are many countries in the Western Hemisphere that are not able to compete in the U.S. market. They include Bolivia, Paraguay, and Ecuador among others. The U.N. list which has been used for defining such countries rely to a large extent on relative GNP. It does not include any country in this hemisphere except for Haiti, a CBI beneficiary. It does include almost all former European, colonies which already benefit from special preferences into the European market, however.

The Administration proposal does not contain any modification of the current rules of origin provision. As I have pointed out, not allowing U.S. inputs to be counted in determining product eligibity puts U.S. producers and neighboring Latin American countries, particularly Mexico, at a disadvantage. U.S. content should be included in meeting the rules of origin requirements. Current origin requirements disqualify about $800 million of Mexican imports which exceeds the $600 million which received duty free treatment in 1982.

Finally, we would like to reiterate some other ideas we suggested to GSP subcommittee during the preparations of the Administration proposal:

(a) increase in the *de minimus* level for exclusion from the competitive need limit;

(b) increase product coverage, through designating products of interest to Latin America. There may be cases where products cannot be designated for all GSP beneficiaries but can be designated for a group of countries which includes all of Latin America or which includes lesser developed countries in Latin emanates from other areas or where products can be designated for lesser developed countries in the hemisphere;

(c) increase the certainty of GSP concessions by extending the period between product reviews (now done annually); and

(d) cease the current practice of terminating the eligibility of GSP if, as a result of an injury finding, imports from other areas are deemed to be the cause of injury to U.S. producers.

GSP has made an important contribution to prosperity in this hemisphere. At this critical time, we should expand, not cut back the benefits of the system. We hope the Administration proposal and our suggestions will help accomplish this objective.

Thank you.

## STATEMENT OF ROBERT L. MULLEN, DIRECTOR OF INTERNATIONAL RELATIONS, THE SINGER CO., WASHINGTON, D.C.

Mr. MULLEN. Mr. Chairman. I am Robert L. Mullen, the Singer Co., presently chairman of the International Business Council of the Electronic Industries Association. Accompanying me is Mr. Alan Spurney, our staff director, for the council.

Mr. Chairman, you have asked the witnesses in today's hearing summarize their statements in 2 minutes of oral testimony, so let me say that EIA favors the renewal of GSP, recommends that the existing law be amended, does not recommend that we amend it in precisely the manner set forth in the S. 1718.

Our own recommendation for amending the existing law is, in effect, that the executive branch should refer to certain particular criteria when exercising its broad discretion under this particular statute. Exhibits A through D, attached to our complete statement, are entitled "Criteria for Executive Branch Actions Under GSP."

Exhibit A of this criteria—distinguish between developed and developing countries.

Exhibit B of the criteria—evaluating the economic characteristics and trade conduct of a candidate developing country.

Exhibit C of this criteria—determining the import sensitivity of an article candidate for eligibility.

Exhibit D of the criteria—determining the requisite content of an eligible article.

The administration's proposal serves mainly to amend existing law in three particulars. First, the broaden the circumstances under which the President would be authorized to waive the competitive need list limits.

Second, to add the lower competitive need limit to the existing provision of the higher competitive need limit.

Third, to authorize the President to redesignate as eligible an article which had previously become ineligible by virtue of having exceeded the competitive need limit for a given country.

The administration's approach is to use a continuation of GSP benefits as an incentive for beneficiary countries to allow equitable access to their markets. EIA's approach is, on the other hand, to make the extent of equitable access a heavier favor when initially determined whether the candidate developing country should be designated a beneficiary. However, EIA does see merit in the administration's recognition by virtue of its proposing two alternate levels of benefit—that countries can develop strong degrees of competitiveness in such articles—that such articles of such countries should be graduated out of the eligibility more readily than others.

However, we regard the granting of beneficiary status in the first place as critical. We feel that exhibit B of our report should provide the best for deciding whether beneficiary status is deserved.

Senator DANFORTH. Thank you, gentlemen.

Mr. MULLEN. Thank you.

[The prepared statement of Robert L. Mullen follows:]

January 27, 1984
Statement of the
Electronic Industries Association
"EIA"
to the
Subcommittee on International Trade
of the
Committee on Finance
U.S. Senate
on the
POSSIBLE RENEWAL OF THE
U.S. GENERALIZED SYSTEM OF PREFERENCES
"GSP"

I am Robert L. Mulien of the Singer Company, presently Chairman of the International Business Council of the Electronic Industries Association (EIA). Accompanying me is Alan B. Spurney, Staff Director of our Council.

Mr. Chairman, you have asked the Witnesses at today's hearing to summarize their Statements in two minutes of oral testimony. So, let me say that EIA...

...favors the renewal of GSP;

...recommends that the existing law be amended;

...does not recommend that it be amended in precisely the manner set forth in the "Generalized System of Preferences Renewal Act of 1983 (S.1718)."

Our own recommendation for amending the existing law is, in effect, that the Executive Branch should refer to certain practical CRITERIA when exercising its broad discretion under this particular statute. Exhibits A through D, attached to our complete Statement, are entitled "Criteria for Executive Branch Actions under GSP."

Exhibit-A sets forth Criteria for "Distinguishing Between Developed and Developing Countries."

Exhibit-B sets forth Criteria for "Evaluating the Economic Characteristics and Trade Conduct of a CANDIDATE Developing Country."

Exhibit-C sets forth Criteria for "Determining the Import-Sensitivity of an Article CANDIDATE for Eligibility."

Exhibit-D sets forth Criteria for "Determining the Requisite CONTENT of an Eligible Article."

The Administration's proposal serves mainly to amend existing law in three particulars:

- First, to broaden the circumstances under which the President would be authorized to "waive" the Competitive Need Limits;
- Second, to add a "Lower Competitive Need Limit" to the existing provision of a (higher) Competitive Need Limit;
- Third, to authorize the President to re-designate as "eligible" an article which had previously become ineligible by virtue of having exceeded the Competitive Need Limit for a given country.

The Administration's approach is to use the continuation of GSP's benefits as an incentive for Beneficiary countries to allow equitable access into their markets. EIA's approach is, on the other hand, to make the extent of equitable access a heavier factor when initially determining whether a candidate developing country should be designated as a Beneficiary.

However, EIA does see merit in the Administration's recognition...by virtue of its proposing two alternative levels of benefit...that countries can develop a strong degree of competitiveness in certain articles; that such articles of such countries should be graduated out of Eligibility more readily than others. However, we regard the granting of Beneficiary status in the first place as critical. We feel that Exhibit-B reports should provide the basis for deciding whether Beneficiary status is deserved.

Mr. Chairman, that concludes my oral testimony. Mr. Spurney and I would be pleased to answer the Subcommittee's questions. If unable to answer them here, we would respond in writing as soon as possible.

The Exhibit-A and Exhibit-B Criteria could be applied by amending Section 502 of the Trade Act of 1974, entitled "Beneficiary Developing Country."

The Exhibit-C and Exhibit-D Criteria could be applied by amending Section 503, entitled "Eligible Articles."

As to Exhibit-A, please observe that neither existing law nor S.1718 provide a distinction between industrialized countries, on the one hand, and developing countries, on the other hand. Nor do they provide for any distinction between ADVANCED developing countries and the rest of the field. The latter is, in EIA's view, important (because that distinction is utilized in our Exhibit-B Criteria).

It has been suggested that any categorization of developing countries might be viewed by the General Agreement on Tariffs and Trade organization (GATT) as improperly discriminatory. Notwithstanding that position, existing GSP law does accord special preference to so-called "Least-Developed Developing Countries (LDDCs)." LDDCs are identified by referring to a July 1981 listing of 32 countries by a United Nations Conference, and to an April 1983 listing of 36 countries by the United Nations Commission on Trade and Development (UNCTAD).

We submit that the World Bank IS an arm of the United Nations, and that it does, each year, methodically calculate the "GNP per capita" for each of 125 nations and, by that index, does arrange those nations in three categories which clearly relate to developing countries, and another category which clearly relates to industrialized countries. We submit that the statistical findings of the World Bank are respected by the community of nations, and that annual preparation of its "World Development Report" does enable recognition that a given country can "graduate" from one category to another, from one year to the next.

Now, as to Exhibit-B, let me explain that the rationale is for the President to take these Criteria into account when deciding whether to designate a country as a Beneficiary. They are not meant to constitute rigid standards that countries must meet in order to qualify.

Criterion #1 is meant to divert the focus from "Communism" or "Communist-dominated" toward "non-market economy." Here, the key is whether the selling price of an article is determined for the most part by the functioning of free market forces...or whether selling prices are set by government without regard to market forces. Please understand that the existence of a Cost/Price relationship is, for instance, fundamental in the application of our Antidumping and Countervailing laws.

Criterion #2 is based on the fact that a "dependent" country should properly look to its "sovereign" country for assistance in developing its economy. Puerto Rico and the Virgin Islands certainly look to the United States for assistance in developing their economies. We do not shift that burden to the European Economic Community (EEC) or to Japan...even though their GSP systems presently list Puerto Rico and the Virgin Islands as Beneficiaries.

Hong Kong is a dependent of the United Kingdom. By 1982, Hong Kong had become one of the eight countries from which U.S. imports of electronic products exceed $1 billion per year. (The field of eight includes, incidentally, Japan and Canada, which are fully industrialized countries). However, in Hong Kong's case, $183 million worth of those electronic products entered this country duty-free under GSP in 1982.

Criterion #3 asks, in effect, for a continuous monitoring of this nation's deficit on current account and in merchandise trade. The latter, having been in the $20 billions and $30 billions, will be in the $60 billions or $70 billions for 1983. It is said that our trade with the Third World has the most rapid-growth potential. If so, will it aggravate or relieve our trade deficit predicament? The United States must examine every component of these deficits, and should proceed toward remedying them by practicable means. Withholding GSP is a means at our disposal.

Next comes Exhibit-C. It includes factors that are already reported by the U.S. International Trade Commission (ITC) when it submits data on articles. But our Criterion #1 does suggest an innovation: If imports account for more than 20% of U.S. consumption, then an article is at a certain threshold beyond which Injury to domestic producers could be possible. Is that not a point of "Sensitivity?"

Criterion #2 asks that end-products (of which the article is customarily a component) also be brought into the determination of import-sensitivity. That, because it is becoming increasingly possible to import components into the United States while reporting the transaction in terms of an end-product.

"Kits" comprising all of the components of an end-product can enter the U.S. as the end-product. Further, components can enter a U.S. Foreign Trade Zone (FTZ)...which is within the "jurisdiction" of the United States...but, thereafter, enter the "customs territory" of the United States as end-products (assembled inside the FTZ). Our point is that the Customs Service records the entry of end-products under such circumstances...and this creates a discrepancy in the import statistics.

With respect to all four of the Criteria contained in Exhibit-C, we ask that the data depict "the three most recent years" of experience. That is because the ITC should signal any abrupt changes in the statistical pattern. A planned and purposeful program for penetrating the U.S. market by foreign producers of a given article can often be revealed if, for example, imports have usually accounted for 15% - 18% of U.S. consumption...then abruptly rise to double that quotient. That, by way of explanation, was the circumstance leading up to the initial Orderly Marketing Arrangement on color TV sets.

EIA's Exhibit-D Criteria had their root in the electronic industries' conviction that if Beneficiary countries import a lot of components from industrialized countries...in order to make their articles...then some of those components should be from the U.S. After all, ours is the nation accepting their eligible articles duty-free. GSP should not accrue largely to the benefit of other industrialized nations in a system where ours is the donor.

Please understand that the EEC and the Japanese GSP systems require that the sum of the Beneficiary country's Content plus the Donor country's Content must, in any combination, total at least 50% of an article's value when it enters the Donor country...(except that their systems also exclude many articles regardless of Content).

Finally, we have attached an Exhibit-E. We believe that it would be helpful to you if we could define and describe "performance requirements." They appear as Criterion #11 in Exhibit-B, "Evaluating the Economic Characteristics and Trade Conduct of a CANDIDATE Developing Country." Our Exhibit-E recites how a growing number of developing countries are imposing conditions on investment in their countries. These conditions are trade-related, especially in the sense that they proscribe the importation of selected articles and of component parts destined for use in those articles.

Whereas the United States cannot prevent other countries from imposing performance requirements on their automotive, or aircraft, or instrument, or computer industries...as are the instances, so far...the United States can certainly withhold Beneficiary status under our GSP system until those countries agree to reduce or remove such requirements as distort trade in merchandise.

• • •

1984 marks the 60th Anniversary of EIA. With more than 1000 participating companies, ours is the full-service national trade association representing the entire spectrum of U.S. companies manufacturing electronic products. These include components, equipment, and systems; they are made for industrial, governmental, and consumer end-uses.

**The 1983 figures are not quite ready yet, but, in 1982, the electronic industries of the United States generated $126 billion worth of factory sales, exported over $24 billion worth of electronic products and imported $21 billion. Ours constitutes one of the few manufacturing sectors of the U.S. economy that produced a trade SURPLUS ($3.2 billion). The electronic industries employ 1.6 million Americans.**

EIA 1-27-84

EXHIBIT-A

## CRITERIA for Executive Branch Actions under GSP

### Distinguishing between Developed and Developing Countries.

These criteria could be applied by amending Section 502 of the Trade Act of 1974, entitled "Beneficiary Developing Country."

(a) For purposes of this title, the term "developing country" means any nation which is deemed to be an "Upper Middle-Income Economy," a "Lower Middle-Income Economy," or a "Low-Income Economy" by the World Bank.

(b) For purposes of this title, the term "Advanced Developing Country" means any nation which is deemed to be an "Upper Middle-Income Economy" by the World Bank.

(c) For purposes of this title, the term "Least Developed Developing Country" means any nation which is deemed to be a "Low-Income Economy" by the World Bank.

(d) Any nation which is deemed by the World Bank to be an "Industrial Market Economy" is a developed country.

FOOTNOTE:

Annually, the World Bank publishes its "World Development Report." In the 1983 edition, Table 1 "Basic Indications" (pages 148-9) lists 125 nations in ascending order of their "Gross National Product (GNP) per capita." 34 nations from Kampuchea upwards to Ghana ($400 GNP per capita) are deemed to be "Low-Income Economies." 38 nations from Kenya ($420) upwards to Paraguay ($1,630) are deemed to be "Lower Middle-Income Economies." 20 nations from Korea ($1,700) upwards to Trinidad-Tobago ($5,670) are deemed to be "Upper Middle-Income Economies." 19 nations from Ireland ($5,230) to Switzerland ($17,430) are deemed to be "Industrial Market Economies."

There are two other categories shown in Table 1: "High-Income Oil Exporters" including four nations...and "East European Non-Market Economies" including eight nations.

Table 1 of the 1983 "World Development Report" is now attached.

EIA 1-27-84

EIA 1-27-84

attached to
EXHIBIT-A

# Table 1. Basic indicators

| | Population (millions) Mid-1981 | Area (thousands of square kilometers) | GNP per capita: Dollars 1981 | GNP per capita: Average annual growth (percent) 1960–81[b] | Average annual rate of inflation[a] (percent): 1960–70[c] | Average annual rate of inflation[a] (percent): 1970–81[d] | Adult literacy (percent) 1980[e] | Life expectancy at birth (years) 1981 |
|---|---|---|---|---|---|---|---|---|
| **Low-income economies** | **2,210.5 *t*** | **31,020 *t*** | **270 *w*** | **2.9 *w*** | **3.5 *m*** | **11.2 *m*** | **52 *w*** | **58 *w*** |
| **China and India** | **1,681.5 *t*** | **12,849 *t*** | **280 *w*** | **3.5 *w*** | .. | .. | **56 *w*** | **61 *w*** |
| **Other low-income** | **529.0 *t*** | **18,171 *t*** | **240 *w*** | **0.8 *w*** | **3.3 *m*** | **11.6 *m*** | **40 *w*** | **50 *w*** |
| 1 Kampuchea, Dem | | 181 | | | 3.8 | | | |
| 2 Bhutan | 1.3 | 47 | 80 | 0.1 | | | | 45 |
| 3 Lao, PDR | 3.5 | 237 | 80 | | | | 44 | 43 |
| 4 Chad | 4.5 | 1,284 | 110 | −2.2 | 4.6 | 7.4 | *15* | 43 |
| 5 Bangladesh | 90.7 | 144 | 140 | 0.3 | 3.7 | 15.7 | *26* | 48 |
| 6 Ethiopia | 32.0 | 1,222 | 140 | 1.4 | 2.1 | 4.1 | 15 | 46 |
| 7 Nepal | 15.0 | 141 | 150 | 0.0 | 7.7 | 9.3 | 19 | 45 |
| 8 Burma | 34.1 | 677 | 190 | 1.4 | 2.7 | 10.7 | 66 | 54 |
| 9 Afghanistan | 16.3 | 648 | | | 11.9 | *5.0* | 20 | 37 |
| 10 Mali | 6.9 | 1,240 | 190 | 1.3 | 5.0 | 9.7 | *10* | 45 |
| 11 Malawi | 6.2 | 118 | 200 | 2.7 | 2.4 | 10.3 | 25 | 44 |
| 12 Zaire | 29.8 | 2,345 | 210 | −0.1 | 29.9 | 35.3 | 55 | 50 |
| 13 Uganda | 13.0 | 236 | 220 | −0.6 | 3.2 | 41.2 | 52 | 48 |
| 14 Burundi | 4.2 | 28 | 230 | 2.4 | 2.8 | 11.6 | 25 | 45 |
| 15 Upper Volta | 6.3 | 274 | 240 | 1.1 | 1.3 | 9.5 | 5 | 44 |
| 16 Rwanda | 5.3 | 26 | 250 | 1.7 | 13.1 | 13.4 | 50 | 46 |
| 17 India | 690.2 | 3,288 | 260 | 1.4 | 7.1 | 8.1 | 36 | 52 |
| 18 Somalia | 4.4 | 638 | 280 | −0.2 | 4.5 | 12.6 | 60 | 39 |
| 19 Tanzania | 19.1 | 945 | 280 | 1.9 | 1.8 | 11.9 | 79 | 52 |
| 20 Viet Nam | 55.7 | 330 | | | .. | | *87* | 63 |
| 21 China | 991.3 | 9,561 | 300 | 5.0 | | | 69 | 67 |
| 22 Guinea | 5.6 | 246 | 300 | 0.2 | 1.5 | 4.6 | *20* | 43 |
| 23 Haiti | 5.1 | 28 | 300 | 0.5 | 4.0 | 10.0 | 23 | 54 |
| 24 Sri Lanka | 15.0 | 66 | 300 | 2.5 | 1.8 | 13.1 | 85 | 69 |
| 25 Benin | 3.6 | 113 | 320 | 0.6 | 1.9 | 9.4 | 28 | 50 |
| 26 Central African Rep. | 2.4 | 623 | 320 | 0.4 | 4.1 | 12.6 | 33 | 43 |
| 27 Sierra Leone | 3.6 | 72 | 320 | *0.4* | .. | 12.2 | *15* | 47 |
| 28 Madagascar | 9.0 | 587 | 330 | −0.5 | 3.2 | 10.6 | *50* | 48 |
| 29 Niger | 5.7 | 1,267 | 330 | −1.6 | 2.1 | 12.2 | 10 | 45 |
| 30 Pakistan | 84.5 | 804 | 350 | 2.8 | 3.3 | 13.1 | *24* | 50 |
| 31 Mozambique | 12.5 | 802 | | | | | 33 | |
| 32 Sudan | 19.2 | 2,506 | 380 | −0.3 | 3.7 | 15.9 | 32 | 47 |
| 33 Togo | 2.7 | 57 | 380 | 2.5 | 1.3 | 8.9 | *18* | 48 |
| 34 Ghana | 11.8 | 239 | 400 | −1.1 | 7.6 | 36.4 | | 54 |
| **Middle-income economies** | **1,128.4 *t*** | **41,108 *t*** | **1,500 *w*** | **3.7 *w*** | **3.0 *m*** | **13.1 *m*** | **65 *w*** | **60 *w*** |
| **Oil exporters** | **506.5 *t*** | **15,036 *t*** | **1,250 *w*** | **3.8 *w*** | **3.0 *m*** | **13.8 *m*** | **58 *w*** | **57 *w*** |
| **Oil importers** | **621.9 *t*** | **26,072 *t*** | **1,670 *w*** | **3.7 *w*** | **3.0 *m*** | **13.0 *m*** | **72 *w*** | **63 *w*** |
| **Lower middle-income** | **663.7 *t*** | **19,302 *t*** | **850 *w*** | **3.4 *w*** | **2.8 *m*** | **11.1 *m*** | **59 *w*** | **57 *w*** |
| 35 Kenya | 17.4 | 583 | 420 | 2.9 | 1.6 | 10.2 | 47 | 56 |
| 36 Senegal | 5.9 | 196 | 430 | −0.3 | 1.7 | 7.9 | *10* | 44 |
| 37 Mauritania | 1.6 | 1,031 | 460 | 1.5 | 2.1 | 9.0 | *17* | 44 |
| 38 Yemen Arab Rep. | 7.3 | 195 | 460 | 5.5 | .. | 15.6 | 21 | 43 |
| 39 Yemen, PDR | 2.0 | 333 | 460 | | .. | | 40 | 46 |
| 40 Liberia | 1.9 | 111 | 520 | 1.2 | 1.9 | 8.9 | 25 | 54 |
| 41 Indonesia | 149.5 | 1,919 | 530 | 4.1 | | 20.5 | 62 | 54 |
| 42 Lesotho | 1.4 | 30 | 540 | 7.0 | 2.7 | 10.5 | 52 | 52 |
| 43 Bolivia | 5.7 | 1,099 | 600 | 1.9 | 3.5 | 23.0 | 63 | 51 |
| 44 Honduras | 3.8 | 112 | 600 | 1.1 | 2.9 | 9.1 | 60 | 59 |
| 45 Zambia | 5.8 | 753 | 600 | 0.0 | 7.6 | 8.4 | 44 | 51 |
| 46 Egypt | 43.3 | 1,001 | 650 | 3.5 | 2.6 | 11.1 | *44* | 57 |
| 47 El Salvador | 4.7 | 21 | 650 | 1.5 | 0.5 | 10.8 | 62 | 63 |
| 48 Thailand | 48.0 | 514 | 770 | 4.6 | 1.8 | 10.0 | 86 | 63 |
| 49 Philippines | 49.6 | 300 | 790 | 2.8 | 5.8 | 13.1 | 75 | 63 |
| 50 Angola | 7.8 | 1,247 | | | | | | 42 |
| 51 Papua New Guinea | 3.1 | 462 | 840 | 2.5 | 4.0 | 8.6 | 32 | 51 |
| 52 Morocco | 20.9 | 447 | 860 | 2.4 | 2.0 | 8.2 | 28 | 57 |
| 53 Nicaragua | 2.8 | 130 | 860 | 0.6 | 1.8 | 14.2 | 90 | 57 |
| 54 Nigeria | 87.6 | 924 | 870 | 3.5 | 4.0 | 14.2 | 34 | 49 |
| 55 Zimbabwe | 7.2 | 391 | 870 | 1.0 | 1.3 | 10.1 | 69 | 55 |
| 56 Cameroon | 8.7 | 475 | 880 | 2.8 | 4.2 | 10.6 | | 50 |
| 57 Cuba | 9.7 | 115 | | | | | 95 | 73 |
| 58 Congo, People's Rep | 1.7 | 342 | 1,110 | 1.0 | 5.9 | 11.8 | | 60 |
| 59 Guatemala | 7.5 | 109 | 1,140 | 2.6 | 0.3 | 10.4 | | 59 |
| 60 Peru | 17.0 | 1,285 | 1,170 | 1.0 | 10.4 | 34.3 | 80 | 58 |
| 61 Ecuador | 8.6 | 284 | 1,180 | 4.3 | 6.1 | 14.1 | 81 | 62 |
| 62 Jamaica | 2.2 | 11 | 1,180 | 0.8 | 4.0 | 16.8 | 90 | 71 |
| 63 Ivory Coast | 8.5 | 322 | 1,200 | 2.3 | 2.8 | 13.0 | 35 | 47 |
| 64 Dominican Rep | 5.6 | 49 | 1,260 | 3.3 | 2.1 | 9.1 | 67 | 62 |

attached to
EXHIBIT-A

EIA 1-27-84

|  | Population (millions) Mid-1981 | Area (thousands of square kilometers) | GNP per capita: Dollars 1981 | GNP per capita: Average annual growth (percent) 1960–81[b] | Average annual rate of inflation[a] (percent): 1960–70[c] | Average annual rate of inflation[a] (percent): 1970–81[d] | Adult literacy (percent) 1980[e] | Life expectancy at birth (years) 1981 |
|---|---|---|---|---|---|---|---|---|
| 65 Mongolia | 1.7 | 1,565 |  |  |  |  |  | 64 |
| 66 Colombia | 26.4 | 1,139 | 1,380 | 3.2 | 11.9 | 22.4 | 81 | 63 |
| 67 Tunisia | 6.5 | 164 | 1,420 | 4.8 | 3.6 | 8.2 | 62 | 61 |
| 68 Costa Rica | 2.3 | 51 | 1,430 | 3.0 | 1.9 | 15.9 | 90 | 73 |
| 69 Korea, Dem. Rep. | 18.7 | 121 |  |  |  |  |  | 66 |
| 70 Turkey | 45.5 | 781 | 1,540 | 3.5 | 5.6 | 32.7 | 60 | 62 |
| 71 Syrian Arab Rep. | 9.3 | 185 | 1,570 | 3.8 | 2.6 | 12.0 | 58 | 65 |
| 72 Jordan | 3.4 | 98 | 1,620 |  |  |  | 70 | 62 |
| 73 Paraguay | 3.1 | 407 | 1,630 | 3.5 | 3.1 | 12.4 | 84 | 65 |
| **Upper middle-income** | **464.7 *t*** | **21,806 *t*** | **2,490 *w*** | **4.2 *w*** | **3.0 *m*** | **18.6 *m*** | **76 *w*** | **65 *w*** |
| 74 Korea, Rep. of | 38.9 | 98 | 1,700 | 6.9 | 17.5 | 19.8 | 93 | 66 |
| 75 Iran, Islamic Rep. of | 40.1 | 1,648 |  |  | −0.5 | *20.1* | 50 | 58 |
| 76 Iraq | 13.5 | 435 |  |  | 1.7 |  |  | 57 |
| 77 Malaysia | 14.2 | 330 | 1,840 | 4.3 | −0.3 | 7.4 | 60 | 65 |
| 78 Panama | 1.9 | 77 | 1,910 | 3.1 | 1.6 | 7.6 | 85 | 71 |
| 79 Lebanon | 2.7 | 10 |  |  | 1.4 | *14.6* |  | 66 |
| 80 Algeria | 19.6 | 2,382 | 2,140 | 3.2 | 2.7 | 13.4 | 35 | 56 |
| 81 Brazil | 120.5 | 8,512 | 2,220 | 5.1 | 46.1 | 42.1 | 76 | 64 |
| 82 Mexico | 71.2 | 1,973 | 2,250 | 3.8 | 3.5 | 19.1 | 83 | 66 |
| 83 Portugal | 9.8 | 92 | 2,520 | 4.8 | 3.0 | 17.0 | 78 | 72 |
| 84 Argentina | 28.2 | 2,767 | 2,560 | 1.9 | 21.4 | 134.2 | 93 | 71 |
| 85 Chile | 11.3 | 757 | 2,560 | 0.7 | 33.0 | 164.6 |  | 68 |
| 86 South Africa | 29.5 | 1221 | 2,770 | 2.3 | 3.0 | 12.8 |  | 63 |
| 87 Yugoslavia | 22.5 | 256 | 2,790 | 5.0 | 12.6 | 19.4 | 85 | 71 |
| 88 Uruguay | 2.9 | 176 | 2,820 | 1.6 | 51.1 | 60.2 | 94 | 71 |
| 89 Venezuela | 15.4 | 912 | 4,220 | 2.4 | 1.3 | 12.5 | 82 | 68 |
| 90 Greece | 9.7 | 132 | 4,420 | 5.4 | 3.2 | 14.8 | .. | 74 |
| 91 Hong Kong | 5.2 | 1 | 5,100 | 6.9 | 2.4 | 18.4 | 90 | 75 |
| 92 Israel | 4.0 | 21 | 5,160 | 3.6 | 6.2 | 45.5 |  | 73 |
| 93 Singapore | 2.4 | 1 | 5,240 | 7.4 | 1.1 | 5.2 | 83 | 72 |
| 94 Trinidad and Tobago | 1.2 | 5 | 5,670 | 2.9 | 3.2 | 18.7 | 95 | 72 |
| **High-income oil exporters** | **15.0 *t*** | **4,012 *t*** | **13,460 *w*** | **6.2 *w*** | **..** | **18.2 *m*** | **32 *w*** | **57 *w*** |
| 95 Libya | 3.1 | 1,760 | 8,450 | 4.7 | 5.2 | 17.3 |  | 57 |
| 96 Saudi Arabia | 9.3 | 2,150 | 12,600 | 7.8 |  | 24.3 | 25 | 55 |
| 97 Kuwait | 1.5 | 18 | 20,900 | *−0.4* |  | 18.2 | 60 | 70 |
| 98 United Arab Emirates | 1.1 | 84 | 24,660 |  |  |  | 56 | 63 |
| **Industrial market economies** | **719.5 *t*** | **30,936 *t*** | **11,120 *w*** | **3.4 *w*** | **4.3 *m*** | **9.9 *m*** | **99 *w*** | **75 *w*** |
| 99 Ireland | 3.4 | 70 | 5,230 | 3.1 | 5.2 | 14.2 | 98 | 73 |
| 100 Spain | 38.0 | 505 | 5,640 | 4.2 | 8.2 | 16.0 |  | 74 |
| 101 Italy | 56.2 | 301 | 6,960 | 3.6 | 4.4 | 15.7 | 98 | 74 |
| 102 New Zealand | 3.3 | 269 | 7,700 | 1.5 | 3.6 | 12.9 | 99 | 74 |
| 103 United Kingdom | 56.0 | 245 | 9,110 | 2.1 | 4.1 | 14.4 | 99 | 74 |
| 104 Japan | 117.6 | 372 | 10,080 | 6.3 | 5.1 | 7.4 | 99 | 77 |
| 105 Austria | 7.6 | 84 | 10,210 | 4.0 | 3.7 | 6.1 | 99 | 73 |
| 106 Finland | 4.8 | 337 | 10,680 | 3.6 | 6.0 | 12.0 | 100 | 75 |
| 107 Australia | 14.9 | 7,687 | 11,080 | 2.5 | 3.1 | 11.5 | 100 | 74 |
| 108 Canada | 24.2 | 9,976 | 11,400 | 3.3 | 3.1 | 9.3 | 99 | 75 |
| 109 Netherlands | 14.2 | 41 | 11,790 | 3.1 | 5.4 | 7.6 | 99 | 76 |
| 110 Belgium | 9.9 | 31 | 11,920 | 3.8 | 3.6 | 7.3 | 99 | 73 |
| 111 France | 54.0 | 547 | 12,190 | 3.8 | 4.2 | 9.9 | 99 | 76 |
| 112 United States | 229.8 | 9,363 | 12,820 | 2.3 | 2.9 | 7.2 | 99 | 75 |
| 113 Denmark | 5.1 | 43 | 13,120 | 2.6 | 6.4 | 10.0 | 99 | 75 |
| 114 Germany, Fed. Rep. | 61.7 | 249 | 13,450 | 3.2 | 3.2 | 5.0 | 99 | 73 |
| 115 Norway | 4.1 | 324 | 14,060 | 3.5 | 4.4 | 8.8 | 99 | 76 |
| 116 Sweden | 8.3 | 450 | 14,870 | 2.6 | 4.3 | 10.0 | 99 | 77 |
| 117 Switzerland | 6.4 | 41 | 17,430 | 1.9 | 4.4 | 4.8 | 99 | 76 |
| **East European nonmarket economies** | **380.8 *t*** | **23,422 *t*** | **..** | **..** | **..** | **..** | **99 *w*** | **72 *w*** |
| 118 Albania | 2.8 | 29 |  |  |  |  |  | 70 |
| 119 Hungary | 10.7 | 93 | 2,100 * | 5.0 |  | 2.9 | 99 | 71 |
| 120 Romania | 22.5 | 238 | 2,540 * | 8.2 | −0.2 |  | 98 | 71 |
| 121 Bulgaria | 8.9 | 111 |  |  |  |  |  | 73 |
| 122 Poland | 35.9 | 313 |  |  |  |  | 98 | 73 |
| 123 USSR | 268.0 | 22,402 |  |  |  |  | *100* | 72 |
| 124 Czechoslovakia | 15.3 | 128 |  |  |  |  |  | 72 |
| 125 German Dem. Rep. | 16.7 | 108 |  |  |  |  |  | 73 |

a. See the technical notes. b. Because data for the early 1960s are not available, figures in italics are for periods other than that specified. c. Figures in italics are for 1961–70, not 1960–70. d. Figures in italics are for 1970–80, not 1970–81. e. Figures in italics are for years other than those specified. See the technical notes.

EIA 1-27-84

EXHIBIT-B

## CRITERIA for Executive Branch Actions under GSP

### Evaluating the Economic Characteristics and Trade Conduct of a CANDIDATE Developing Country.

These criteria could be applied by amending Section 502 of the Trade Act of 1974, entitled "Beneficiary Developing Country."

(a) To any recommendation to the President that a particular country be designated as a Beneficiary Developing Country, the United States Trade Representative shall append a report on that country's recent and present characteristics and conduct in the following respects:

(1) Is such country a non-market economy or, otherwise, a Communist-dominated country?

(2) Is such country an overseas dependent territory or possession of another sovereign nation?

(3) Does such country enjoy a surplus in its bilateral current account with the United States?

(4) Has such country refrained from joining the General Agreement on Tariffs and Trade (GATT) organization?

(5) Has such country refrained from signing any of these five GATT Codes?

- Import Licensing Code
- Customs Valuation Code
- Government Procurement Code
- Subsidies Code
- Antidumping Code

(6) Is such country an advanced developing country?

(7) If it be an advanced developing country, has it failed to sign all of the aforesaid five GATT Codes?

(8) Has such country refrained from binding its tariffs, thereby retaining an ability to change its customs duty rates arbitrarily?

(9) Has such country limited, by any means other than tariff, the importation from the United States of certain articles, or of all materials and components required for the assembly of certain finished articles?

Exhibit-B (continued)

(10) Does such country provide under its laws adequate and effective means for foreign nationals to secure, exercise and enforce exclusive rights in intellectual property, including patents, copyrights, and trademark rights?

(11) Has such country imposed trade-related performance requirements on certain industries?

(12) Is there a pattern of unfair trade practices by companies domiciled in such country, as might be indicated by an assortment of unfair trade actions in the United States relative to various goods or services imported from such country?

(13) With respect to ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is or was 50 percent or more beneficially owned by United States persons, has such country --

(A) imposed restrictive or discriminatory operational or maintenance conditions, taxes or other exactions, or

(B) taken steps to repudiate or nullify an existing contract or agreement --

the effect of which is, or has within the last five years been, to nationalize, expropriate, or otherwise cause the loss of ownership or control of such property by such United States persons against their will? Has the U.S. Overseas Private Investment Corporation (OPIC) been obliged to pay any claims by U.S. investors for losses in such country?

(14) Has such country failed to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is, or has within the last five years been, 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute?

(15) Has such country aided, abetted or refrained from or delayed prosecuting any individual or group which has committed an act of international terrorism?

(16) Has such country refrained from taking adequate steps to cooperate with the United States in efforts to prevent narcotic drugs and other controlled substances (as listed in the schedules in 21 USC 812) produced, processed, or transported in such country from entering the United States unlawfully?

FOOTNOTES:
- Items (13) through (16) are carried over from the existing law.
- "Performance requirements," mentioned in Item (11), are defined and described in EXHIBIT-E, attached hereto.

**EXHIBIT-C**

## CRITERIA for Executive Branch Actions under GSP

### Determining the "Import Sensitivity" of an Article CANDIDATE for Eligibility.

These criteria could be applied by amending Section 503 of the Trade Act of 1974, entitled "Eligible Articles."

(a) When advising the President as to the eligibility of an article, the International Trade Commission shall include —

(1) data on United States production, exports, imports, and consumption of the article; the United States balance of trade in the article; and, in the event that it be more than 20%, the percentage of United States consumption of the article which is accounted for by imports;

(2) identification of the end-product(s) in which the article, if it customarily be a component part or material, is utilized and the United States industry(ies) which produce such end-product(s);

(3) the MFN duty rate in the Tariff Schedules of the United States for (1) the article, and (2) the end-product(s) in which the article is utilized;

(4) mention of any trade actions which United States persons have initiated with respect to importation of the article or of the said end-product(s) --

during a period of the three most recent years.

EIA 1-27-84

EXHIBIT-D

## CRITERIA for Executive Branch Actions under GSP

### Determining the Requisite CONTENT of an Eligible Article

These criteria could be applied by amending Section 503 of the Trade Act of 1974, entitled "Eligible Articles."

(a) The duty-free treatment provided under Section 501 of this title with respect to any eligible article shall apply only --

(1) to any article which is imported directly from a beneficiary developing country into the customs territory of the United States without any change of title to or packaging of the article at intermediate points of transhipment;

(2) if the sum of (A) the cost or value of the materials produced in the beneficiary developing country and in the United States, plus (B) the direct costs of processing operations performed in such beneficiary developing country is not less than X percent of the appraised value of such article at the time of its entry into the customs territory of the United States; and

(3) if the processing operations representing (B), above, are more substantial than packaging, combining, or other operations which do not materially alter the characteristics of the article, such as diluting with water or another substance.

**FOOTNOTE:**

With respect to (a)(2), above, the present GSP law says, in effect, that X = 35%, but relates solely to the minimum content which must originate in the beneficiary country.

The recently-enacted Caribbean Basin Economic Recovery Act ("CBI") also says that X = 35%, but that so much as 15% content of U.S. origin may be added to so little as 20% content of local origin in order to attain the requisite 35%.

CBI applies to 25 nearby nations whose stability and security are vital to the USA. GSP applies to five times as many nations, widely scattered. Congress would probably intend GSP to become less beneficient to developing countries than is CBI.

It is for that reason that we resort to the use of "X" in (a)(2), above. Whatever value is ultimately decided upon by Congress, it could be inserted there.

EIA 1-27-84

EIA 1-27-84

EXHIBIT-E

## POSITION of the
## Electronic Industries Association (EIA)
## on
## PERFORMANCE REQUIREMENTS

October 1983

The United States should not condone the imposition by a trading nation of "Performance Requirements." They tend to deny equivalent competitive access for imports into the local market, and to generate exports from that nation into world markets at prices lower than prevail in its own marketplace.

Brazil, Korea, and Mexico impose them on the computer industry. Brazil and Mexico impose them on the instrumentation industry. Brazil, Mexico, and Portugal impose them on the automotive industry. Brazil imposes them on the aircraft industry.

The practice is proliferating.

While less-developed nations might have reason for fostering "infant industry," the imposition of Performance Requirements by advanced developing countries is unjustified. In selected sectors, they are industrialized and heavily engaged in international trade. There is increasing incidence on investments related to the manufacture of high-technology products.

In our view, an industrialized nation has no justification for imposing Performance Requirements.

EIA is not opposed to investment by American companies in manufacturing facilities abroad. Nor are we opposed to foreign companies investing in the United States. In both cases, we advocate "National Treatment." But we do oppose the growing practice of imposing conditions on investment which serve to distort trade under the free market system.

Performance Requirements are conditions which a foreign investor must meet in order to obtain host government approval of intended manufacturing operations. Such conditions might include:

- incorporation of specified local content in manufactured articles, usually increasing during a brief period of start-up;
- constraint on the importation of foreign content, usually accomplished by requiring Import Licenses on such articles as are components of manufactured articles;
- mandatory exportation of a specified amount of manufactured articles without regard to world market price;
- participation by indigenous parties in the equity of the local corporation, often majority participation;
- limitation on the repatriation of profits to the foreign investor.

EIA 1-27-84

Exhibit-E (continued)

Advanced developing countries typically include the local content condition. They start with requiring 40-50%, usually increasing it to 70-80% over a period of several years.

EIA Recommends:

- that the United States negotiate bilaterally with nations imposing Performance Requirements, seeking their removal;
- the extension of Section 301 of the Trade Act of 1974 clearly to include Investment so that, in the event of failure of negotiations, action by the United States would be authorized;
- that the Organization for Economic Cooperation and Development (OECD) seek to have its Investment Guidelines respected in all countries receiving foreign direct investment;
- development in the General Agreement on Tariffs and Trade (GATT) of a multilateral code of conduct relative to Investment.

(Mexico and Taiwan do not subscribe to GATT)

There are measures already in place which may be applied unilaterally at the discretion of the President. Developing countries may be denied designation as Beneficiaries under the U.S. Generalized System of Preferences (GSP) or under the Caribbean Basin Economic Recovery Act ("CBI"). The Investment Tax Credit may be withheld from application to capital equipment imported from specific countries.

Senator DANFORTH. If you were to make the case to the American people for the extension of GSP, could you cite some specific American industries or employers of Americans who have been helped by GSP? Who were the winners domestically?

What group of our population is better off because of GSP than it would be without GSP?

Mr. SAMUELS. Mr. Chairman, I think the biggest beneficiary of all is the American consumer. That cuts across the board and pretty well hits almost everyone. But in terms of industry itself, the retailers are a good example. Certain manufacturing companies that are able to get parts or other manufactured raw materials at less cost in order to produce their own product at less cost are other beneficiaries.

Mr. COHEN. Senator, ECAT members recognize that much of their production here in the United States goes to countries abroad. Approximately 40 percent of all U.S. exports are sold to the developing world. The developing countries are not going to have the ability—the hard currencies—to pay for U.S. products if they are unable to export. Across the economic spectrum, we believe that the GSP program leads to increases in production and employment in the United States. These benefits accrue to high technology industries as well as to more traditional industries.

Mr. **Mullen**. Mr. Chairman, I think it does benefit particularly, as I am familiar with—electronics production, the products people of the United States. It gives an opportunity, where we are losing markets, to developed countries to a degree in componentry work in electronics. It does give an opportunity of establishing in some cases—not necessarily multinational—of facilities in some of these developing countries which is not only beneficial to us, but it is beneficial to them.

Senator **Danforth**. OK. Thank you, gentlemen. Senator Heinz.

Senator **Heinz**. No questions.

Senator **Danforth**. Senator Chafee.

Senator **Chafee**. I would like to ask one question in connection with Senator Danforth's question. Is it not true—perhaps Mr. Mullen answered this—is it not true that because we are able—some of our manufacturers are able—to import under GSP, they are able to receive components and assemble them here in our factories here, thus providing employment to our people before they export or sell that product? Absent GSP, that total product would be assembled abroad, and then brought into the United States and sold. Is that not true?

Mr. **Mullen**. That is correct, Senator.

Senator **Chafee**. What do you say to that, Mr. Samuels?

Mr. **Samuels**. I think that is true, too, yes.

Senator **Chafee**. All right. Fine. Thank you, Mr. Chairman.

Senator **Danforth**. Thank you all very much.

The next panel is Mr. Peterson, Mr. Haluza, and Mr. Wang.

Mr. Hoopes, Mr. Gortikov, and Mr. Foveaux.

Mr. Hoopes, I wonder if you could go first. Senator Chafee is particularly anxious to hear from you.

## STATEMENT OF TOWNSEND HOOPES, PRESIDENT, ASSOCIATION OF AMERICAN PUBLISHERS, NEW YORK, N.Y.

Mr. **Hoopes**. I would be very pleased to, and I thank the Senator for the honor.

My name is Townsend Hoopes. I am the president of the Association of American Publishers, which represents all book publishers in the United States and also producers of journals and computer software.

To American publishers who rely on legal protection for intellectual property, this reauthorization bill is an important continuation of a process that Congress began with the enactment of the Caribbean Basin Initiative. There, for the first time, trade beneficiary status was clearly linked to the protection of intellectual property, including patents, trademarks, and copyrights.

In our view, Mr. Chairman, the United States must not be insensitive to the needs of developing countries, but we should carefully balance the trade benefits we grant them against the impact of their own laws on U.S. trade. It is a fact that countries which benefit most from GSP are the same countries that fail to provide any protection to U.S. intellectual property rights.

American publishers export print and software materials worldwide and also provide for offshore publishing and printing through licensing and copublishing arrangements.

The export value of American books, motion pictures, records, tapes, journals, art works, computer software, and other high technology products is in excess of $1 billion a year. Adequate protection of copyrights is an absolute prerequisite for maintaining this market. It is a sobering thought that 11 of the top 15 GSP beneficiaries last year were clearly failing to provide adequate protection against unauthorized reproduction and sale of copyrighted materials.

The failure to protect is a general condition. In many cases, book piracy represents a wholesale disregard for the legal idea of a copyright. Entire local industries are built on the theft of intellectual property, aided by the complicity of governments who either refuse to enforce existing laws or to enact more stringent ones.

I regret to say that Taiwan and South Korea—the two largest beneficiaries of GSP—are flagrant book pirates both in their home market and in export markets.

Because the problem is approaching crisis proportions, we believe it is timely for Congress to send a message to the GSP beneficiary governments. That message should make clear that the U.S. Government is not prepared to accept the situation any longer.

In short, we see the GSP reauthorization bill as an opportunity to give beneficiary countries compelling incentives to enact strong copyright laws and to enforce the laws they pass. And I would say this—both for the sake of improved world trade and also for the sake of the balanced development of their own economies.

This subcommittee was instrumental in recognizing the piracy problem in the Caribbean Basin legislation. There, Congress added specific language to protect intellectual property. The passage of that CBI law reinforced by implementing action by the executive branch has persuaded certain Caribbean countries that sound domestic copyright laws and strong enforcement are in their own long-term interests. We are pleased to note that our association played a role in this successful effort and persuasion.

We urge the Congress to see that the GSP legislation offers a parallel opportunity, provided that several amendments are incorporated, and we would be pleased to work with the subcommittee to fashion appropriate statutory language. Thank you, Mr. Chairman.

Senator DANFORTH. Thank you, Mr. Hoopes. Mr. Gortikov.

[The prepared statement of Townsend Hoopes follows:]

**Association of American Publishers, Inc.**

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Washington, D.C. 20036
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STATEMENT OF TOWNSEND HOOPES, PRESIDENT
THE ASSOCIATION OF AMERICAN PUBLISHERS
ON
THE GENERALIZED SYSTEM OF PREFERENCES RENEWAL ACT OF 1983
S. 1718
27 JANUARY 1984

The Association of American Publishers (AAP) is pleased to have this opportunity to present testimony today. We hope to be of assistance in your deliberations on the renewal of the GSP.

This is a very important piece of legislation. To the publishing industry and to the other industries who rely on legal protection for intellectual property, this reauthorization bill is a continuation of a process that Congress began with enactment of the Caribbean Basin Initiative, during the first session of this Congress, when for the first time trade beneficiary status was clearly linked to the protection of intellectual property including patents, trademarks and copyrights. The United States must not be insensitive to the needs of developing countries, and should assist in their development, but, we must carefully balance the trade benefits we grant them against the impact of such benefits on U.S. trade and U.S. industry. The countries that benefit most from GSP are frequently the same countries that deprive U.S. nationals of their economic rights. In this statement it is our intention to show how, with certain minimal changes in the bill, the GSP can strengthen the U.S. economy as well as the foreign beneficiaries of GSP.

In our view, it is not too much to require such countries to protect U.S. intellectual property interests in exchange for the very substantial trade benefits accorded them under the GSP.

The AAP is a trade association representing publishers of books, journals, and computer software. The more than 300 member companies and subsidiaries publish between 70 and 75% of the dollar volume of all copyrighted books published in the U.S.

AAP publishers export materials worldwide and also provide for off-shore publishing and printing through licensing and co-publishing arrangements. The export market is important not only to American publishers, but also to industries that create and distribute other forms of intellectual property. The export value of U.S. produced motion pictures, records, tapes, books, journals, artworks, computer software and other high technology intellectual property is in excess of $1 billion annually. Adequate and effective protection of copyright is the only way the world market for intellectual property can expand; without it, investment is reduced and jobs are lost in the publishing, printing amd related industries.

It is a sobering thought that 11 of the top 15 GSP Beneficiaries for 1982 (Appendix A) clearly failed to provide protection to U.S. publishers against unauthorized reproduction and sale of copyrighted materials.

The problems consist of more than isolated acts. In many cases, "piracy" represents a wholesale disregard for the legal idea of copyright, as well as for the particular copyrights of U.S. nationals. In some countries, entire industries are built on the theft of intellectual property, aided by the complicity of governments who refuse either to enforce existing laws or to enact more stringent ones. Even when arrested, pirates are often released without fines or penalties to continue their unlawful behavior unchecked. Unauthorized versions of books and related products are sold within the pirate country. They are also sold for export to third countries further damaging the U.S. export market. Examples include books published illegally in Taiwan (a country whose 1982 exports to the U.S. of GSP products totalled $2.3 billion) that were exported to Nigeria, and books similarly pirated in Korea (a country whose 1982 exports to the U.S. of GSP products totalled $1.09 billion) that were exported to the Middle East and also sold via mail-order to Japan. These examples reflect the situation in the two countries that benefit most from the GSP program.

Flagrant disregard for intellectual property is inexcusable in countries which benefit from substantial trade and aid concessions provided to them. (Appendix B catalogues a few more examples of piracy experienced by AAP members in Taiwan and Korea, and this is only a preliminary list; Appendix C indicates other countries where U.S. publishers have sufferred from theft of intellectual property.)

The Asian Wall Street Journal in its 5 December edition compared sales by pirates with sales by authorized importers and found that "pirates sell at least $100 million in books annually -- and sales are rising. Importers of authorized books, meanwhile, sell only $5 - $8 million and their sales are plunging." In short, legitimate business cannot compete with piracy.

The problem is approaching crisis proportions, it is therefore timely for Congress and the U.S. Government to send a message to the beneficiary governments under the GSP. The message should make clear that the U.S. government will not tolerate this situation any longer. To assure that the message is received and understood, the new GSP law must include language specifically requiring a country to secure, protect and enforce the intellectual property rights of U.S. nationals as a condition of GSP eligibility.

Piracy of intellectual property is detrimental to world trade. Piracy hurts U.S. nationals, but piracy is also a problem for the countries where it is allowed to exist. It does incalculable damage to indigenous authors and publishers, for those honest individuals cannot compete against the pirates; their economic incentive is thus undermined even within their own national markets. The problem of piracy has severely hindered the growth of local publishing and distribution businesses throughout the Third World. It also inhibits the free flow of information: where piracy flourishes, U.S. companies are loathe to trade, and this measurably curtails the inflow of educational and cultural materials. Where the information flow is thus artificially restricted, international understanding may be the principal victim.

Our experience with piracy indicates that major remedial action is required without delay. Countries must be given compelling incentives to enact strong copyright laws and to enforce the laws they pass. Their laws must actively discourage pirates from both unlawful local reproduction and sale, and also from unlawful export. This GSP revision bill is an opportunity to provide such needed incentives, to show the less developed countries that piracy and other forms of disregard for intellectual property is no longer acceptable to the United States.

This subcommittee, and its counterpart in the House, was instrumental in recognizing the piracy problem in the Caribbean Basin legislation. There Congress undertook to add specific language to protect intellectual property. The passage of the Caribbean Basin Economic Recovery Act, reinforced by the firm implementing actions taken by the Executive Branch, has overcome initial resistance by certain Caribbean countries to the notion that they would be required to take specific remedial actions to halt piracy. They now appear to understand that sound domestic copyright laws and strong enforcement are in their own long-term interest. We are pleased to note that the AAP and several individual U.S. publishers played a role in this effort at persuasion.

We urge Congress and the Administration to see that the GSP legislation offers a parallel opportunity, provided that several amendments are incorporated.

The GSP is now structured as two sets of criteria: first, mandatory criteria (Section 502(b)) which, if not satisfied, render a country ineligible for trade benefits; and second, discretionary criteria (Section 502 (c)) which the President "shall take into account" before designating a country. The current law is clear, for example, (as reflected in Section 502(b)(4)) that a country which expropriates property owned by U.S. citizens without compensation cannot be designated, and subsection (4)(C) extends this condition to "taxes or other exactions, restrictive maintenance or operational conditions; or other measures" which have the "effect" of expropriation. While this language is arguably intended to encompass only the expropriation of physical assets within a country, we see no reason why it should be so restricted. A country which offers virtually no protection to U.S. citizens when their intangible (as opposed to tangible) property is "taken" without permission or compensation is "expropriating" property just as much as if it were seizing physical assets. We therefore propose that the mandatory condition governing expropriation be clearly extended to cover those countries which afford virtually no protection to intellectual property. Countries which provide some degree of protection should be judged under the discretionary criteria.

With further reference to discretionary criteria we applaud the Reagan Administration's intention to interpret Section 502(c)(4) to extend the "reasonable access to markets" criteria to the protection of intellectual property. We would, however, urge Congress to include such intentions in the statute. The GSP is a 10 year program and later administrations may choose to read "reasonable access" in a different manner. Furthermore, only by adding unequivocal statutory language -- such as was done in the CBI legislation -- will the full commitment of the U.S. government to halt piracy be made evident. We believe the President should be equipped with unambiguous statutory language with respect to the adequate and effective protection of intellectual property. We would be pleased to work with the Committee to fashion appropriate statutory language.

We would also urge that the new law require the President to render periodic reports to the Congress on the progress of beneficiary countries in halting piracy.

We hope the Subcommittee will understand that, while the United States can benefit the entire world by bringing to it the benefits of our great physical wealth, the fruits of our artistic and intellectual creation may be even more important contributors to world peace, whether embodied in paintings and books or in newer forms like film and videotape. This country may well lose its comparative advantage in certain physical products, but we can be hopeful that our ideas and our art will continue to be exports of special attraction to the world. But that hope will depend in some part upon support by our government to assure protection for these precious assets.

APPENDIX A

## GSP 1982 TOP 15 BENEFICIARIES LIST

| Beneficiary Rank | Country | 1982 GSP imports ($million) | % of total $8.4 billion | GNP per capita (1980$) |
|---|---|---|---|---|
| 1 | Taiwan | 2,333 | 27.7 | 1,910 |
| 2 | Korea | 1,089 | 12.9 | 1,520 |
| 3 | Hong Kong | 795 | 9.4 | 4,240 |
| 4 | Mexico | 599 | 7.1 | 2,090 |
| 5 | Brazil | 563 | 6.7 | 2,050 |
| Subtotal (1-5) = | | 5,379 | 63.8 | |
| 6 | Singapore | 429 | 5.1 | 4,430 |
| 7 | Israel | 407 | 4.8 | 4,500 |
| 8 | India | 188 | 2.2 | 240 |
| 9 | Yugoslavia | 179 | 2.1 | 2,620 |
| 10 | Argentina | 173 | 2.1 | 2,390 |
| Subtotal (6-10) = | | 1,376 | 16.3 | |
| 11 | Thailand | 162 | 1.9 | 670 |
| 12 | Chile | 150 | 1.8 | 2,150 |
| 13 | Philippines | 137 | 1.6 | 690 |
| 14 | Peru | 104 | 1.2 | 930 |
| 15 | Portugal | 103 | 1.2 | 2,370 |
| Subtotal (11-15) = | | 656 | 7.7 | |
| Total (1-15) = | | 7,411 | 87.8 | |

EB/OT/GCP - BMalkin
3/9/83

SOURCE: OFFICE OF U.S. TRADE REPRESENTATIVE

APPENDIX B

## TAIWAN PIRACY

**ADDISON-WESLEY**
- professional and college textbooks

**BANTAM BOOKS**
- six titles in English and Chinese
- mass market paperbacks
- Chinese editions were found in Singapore and Malaysia (expect that they were produced in Taiwan for export)

**C.V. MOSBY**
- professional and college textbooks

**EDUCATIONAL TESTING SERVICE**
- 50 or more titles
- tests and related materials
- Test materials were reprinted in English with Chinese explanations - pirate is publisher-coaching school.

**ELSEVIER**
- 10 professional titles

**ENCYCLOPAEDIA BRITANNICA, INC.**
- 1 title - 5000 copies produced of a reference work

**HAMMOND INC.**
- 1 title, 1,000 copies - trade hardback

**HARPER & ROW**
- books produced in Taiwan for export to East African countries
- textbooks and reference books
- The number of titles pirated have been about 50,000.

**HOUGHTON MIFFLIN**
- 1 title - hardback; suspect there are more.

**JOHN WILEY AND SONS**
- college textbooks and reference works
- Wiley attempts to license reprints where possible but sees this as futile; have had limited success in pressuring reprinters who are both pirates and customers
- evidence of exports from Taiwan to Hong Kong & Singapore of pirated books

**LITTLE, BROWN & CO.**
- 36 titles, trade (hardback), professional and college textbooks
- Have supplied agents with books at lower prices or equal

to the prices of pirated editions to try to knock pirates out of business.

- In Taiwan, books are reprinted under various government decrees. Trade, medical texts and professional books are all subjects of piracy.

**McGRAW-HILL**

- 300 titles, professional and college textbooks
- Taiwan exports pirated books to Nigeria

**MACMILLAN**

- 12 titles, college texts

**NATIONAL LEARNING CORPORATION**

- several professional, reference and trade paperback
- have stopped shipping to Taiwan

**PRENTICE-HALL**

- 15 - 20 titles pirated in runs of 5,000 - 25,000 copies
- college texts

**QUINTESSENCE**

- 2 titles - 1,000 copies
- professional books - printed in Chinese, unauthorized translations

**READERS' DIGEST**

- 15 titles, some printed in runs as high as over 10,000 copies
- Chinese and English versions.
- Taiwan law does not consider copyright infringement a serious offense, thus enforcement authorities seldom initiate any action, and even when the infringer is taken to court, the penalties are ineffective deterrents.

**RIZZOLI INTERNATIONAL PUBLICATIONS**

- 1 title - trade book
- Pirated versions translated into Chinese for domestic market.

**ST. MARTIN'S PRESS**

- 2 titles - 500 copies, 3 titles - 2,000
- Taiwan exports pirated editions (sometimes via Singapore).

**SIMON & SCHUSTER**

- For one trade hardback S & S wrote a "cease and desist" letter to the Taiwanese publisher, but received no response.
- Pirated editions have been found sold in the U.S., inquiry indicated that the Taiwan Government would not offer any real assistance.

**SOUTH-WESTERN PUBLISHING COMPANY**

- Experience with piracy, but having difficulty quantifying

**TIME-LIFE BOOKS**

- 1 title, 1,000 copies of trade hardback in English
- retained local attorney: no effective result.

**UNIVERSITY OF CALIFORNIA PRESS**
- Independent publishers: Mei Ya, Taipei Publications, Four Seas Record and Publishing Co., are paying royalties to original publishers - but most see no need to conclude a formal contract with original publisher as long as government remains outside international copyright conventions.

**UNIVERSITY OF WASHINGTON PRESS**
- One reference book was pirated. They entered into a legitimate co-publishing arrangement with local publisher.

**WADSWORTH**
- Two college textbooks were pirated.

**WESLEYAN UNIVERSITY PRESS**
- 1-2 trade hardbacks

**WILLIAM KAUFMANN**
- Three volume reference set. Consulted an attorney who told them of the high cost of pre-empting copyright in Taiwan and forestalling piracy, so they didn't try.

## PIRACY EXPERIENCED IN KOREA

**Abingdon Press**

Two titles, unauthorized translations. Abingdon wrote to the publisher or translator stating that they were aware of the project, that it was unauthorized, and that proper copyright notice was required on any reprint.

**Addison-Wesley**

Professional titles and college textbooks.

**C. V. Mosby Co.**

Professional and College textbooks, more than 100 volumes of one title, more than 300 volumes of another. Pirate is private publisher.

**Cambridge University Press**

More than 50 titles of college texts and reference books.

**Elsevier Science Publishing**

Five or ten professional titles. Books were reproduced in English by private publisher for domestic market.

**Harper & Row**

5000 copies of 6 different titles of professional and college textbooks. The books were in English. No legal action was taken because it would have been fruitless. Even the local publisher is unable to get protection because the government does not recognize the existence of any copyright law in Korea. Piracy is viewed as legal because there is no local law.

**Lange Medical Publications**

8 titles of basic medical science were reproduced in the 100's of copies for each. Asian courts and law enforcement authorities tend to be lax or easily swayed in favor of the locals. Penalties are usually minor and frequently ignored.

**Little, Brown and Co.**

36 titles of professional books were pirated. Have supplied agents with books at prices lower than or equal to prices of pirated editions in hopes of knocking pirates out of business.

**McGraw-Hill**

300 titles of professional and college textbooks in unknown quantities have been pirated.

**Macmillan**

One Medical book was pirated. Macmillan notified the Minister of Culture and Information of the Republic of South Korea, the Korean Publishers Association, the United States Embassy, the AAP and the publisher of the pirated edition. No results were obtained.

**New England Journal of Medicine**

Pirated versions of the journal have print runs of 300 - 1000. They are distributed by subscription. Have been told that there is no legal recourse other than establishing local company.
Draft revision of Korean copyright law has been held in abeyance. Pirate is subscriber who gets his copy air mail and runs it off competing with local legitimate distributors.

**Pelican Publishing Company**

1 title in Korean of a trade hardback.

**Prentice-Hall**

college textbooks are pirated. Local law does not protect copyright of foreign publishers, and South Korea hasn't signed any international convention. Pirates provide books to bookstores on consignment and also sell through catalogs. WSJ reports on interview with one of 300 pirates who says he can compete with American publisher attempts to undersell and drive pirate out of business.

**St. Martin's Press**

21 titles of professional and college texts, were reproduced in runs of 600 copies each. It is rumored that Korea sends pirated copies to the Middle East. Also may sell by direct mail to Japan.

**The University of California Press**

The difference between the cost of the pirated edition and the original is too big - 4 to 6 times less - to discourage people from buying pirated editions. The problem is shared by the honest book importers. The top book importers have formed an association recently and formed their own publishing company to negotiate with foreign publishers for legitimate reprint rights They expect a new set of laws to be passed in the next two years to control the existing free-for-all piracy business. The company is United Publishing & Promotion Co., Ltd in Seoul.

**W. B. Saunders**

Professional and reference works have been pirated by a large number of private publishers. There has been some export to Southeast Asia.

**Wadsworth International**

Four titles of college textbooks. Wadsworth tried to use reliable local distributors who would have interest in shutting down the pirates who had pirated the titles they had imported. No success.

**John Wiley**

Over 150 college textbook titles are pirated in Korea.

APPENDIX C

## COUNTRIES OF PIRACY BY PUBLISHER
(as of January 23, 1984)

| COUNTRIES | PUBLISHERS |
|---|---|
| ARGENTINA | Houghton Mifflin |
| ARGENTINA | McGraw-Hill |
| ARGENTINA | Quintessence Publishing Co. |
| AUSTRALIA | McGraw-Hill |
| BANGKOK | Little, Brown and Company |
| BRAZIL | Quintessence Publishing Co. |
| CHILE | McGraw-Hill |
| COLOMBIA | Bantam Books |
| COLOMBIA | McGraw-Hill |
| COSTA RICA | McGraw-Hill |
| DOMINICAN REPUBLIC | Addison-Wesley Publishing Co. |
| DOMINICAN REPUBLIC | Harper & Row |
| DOMINICAN REPUBLIC | McGraw-Hill |
| DOMINICAN REPUBLIC | Macmillan Publishing |
| DOMINICAN REPUBLIC | South-Western Publishing |
| ECUADOR | D.C. Heath & Co. |
| GERMANY | Macmillan Publishing |
| GREECE | St. Martins Press |
| HOLLAND | Acropolis Books |
| HONG KONG | Addison-Wesley Publishing Co. |
| HONG KONG | Univ. of Calif. Press |

| | |
|---|---|
| INDIA | Amer. Assn. of Petroleum Geologists |
| INDIA | Bantam Books |
| INDIA | Cambridge Univ. Press |
| INDIA | Harper & Row |
| INDIA | Lange Medical Publications |
| INDIA | Little, Brown and Company |
| INDIA | McGraw-Hill |
| INDIA | C. V. Mosby Company |
| INDIA | National Learning Corp. |
| INDIA | Wadsworth International |
| INDONESIA | McGraw-Hill |
| INDONESIA | C. V. Mosby Company |
| INDONESIA | Prentice-Hall |
| INDONESIA | St. Martin's Press |
| INDONESIA | John Wiley & Sons |
| IRAN | Lange Medical Publications |
| IRAN | C. V. Mosby Company |
| IRAQ | Prentice-Hall |
| JAPAN | Macmillan Publishing |
| JAPAN | National Learning Corp. |
| JORDAN | McGraw-Hill |
| JORDAN | Wadsworth International |
| KOREA | Abingdon Press |
| KOREA | Cambridge Univ. Press |
| KOREA | Elsevier-Science Publ. |
| KOREA | Harper & Row |

| | |
|---|---|
| KOREA | Lange Medical Publications |
| KOREA | McGraw-Hill |
| KOREA | Macmillan Publishing |
| KOREA | C. V. Mosby |
| KOREA | New Engl. Journal of Med. |
| KOREA | Pelican Publishing |
| KOREA | Prentice-Hall |
| KOREA | St. Martin's Press |
| KOREA | W. B. Saunders |
| KOREA | Univ. of Calif. Press |
| KOREA | Wadsworth International |
| KOREA | John Wiley & Sons |
| LEBANON | McGraw-Hill |
| LEBANON | Princeton Univ. Press |
| MALAYSIA | Nat'l Learning Corp. |
| MALAYSIA | Prentice-Hall |
| MALAYSIA | St. Martin's Press |
| MEXICO | Macmillan Publishing |
| NIGERIA | Cambridge Univ. Press |
| NIGERIA | McGraw-Hill |
| NIGERIA | St. Martin's Press |
| NIGERIA | Wadsworth International |
| PEOPLES REPUBLIC OF CHINA | Amer. Assn. of Petroleum Geologists |
| PEOPLES REPUBLIC OF CHINA | American Geophysical Union |
| PEOPLES REPUBLIC OF CHINA | Elsevier-Science Publ. |
| PEOPLES REPUBLIC OF CHINA | Harper & Row |

| | |
|---|---|
| PEOPLES REPUBLIC OF CHINA | Lange Medical Publications |
| PEOPLES REPUBLIC OF CHINA | McGraw-Hill |
| PAKISTAN | Bantam Books |
| PAKISTAN | Harper & Row |
| PAKISTAN | Lange Medical Publications |
| PAKISTAN | Little, Brown and Company |
| PAKISTAN | McGraw-Hill |
| PAKISTAN | C. V. Mosby Company |
| PAKISTAN | St. Martin's Press |
| PAKISTAN | John Wiley & Sons |
| PERU | F. A. Davis |
| PERU | Harper & Row |
| PERU | McGraw-Hill |
| PERU | Prentice-Hall |
| PHILIPPINES | Bantam Books |
| PHILIPPINES | Little, Brown and Company |
| PHILIPPINES | McGraw-Hill |
| PHILIPPINES | Nat'l Learning Corp. |
| PHILIPPINES | Simon & Schuster |
| PHILIPPINES | Wadsworth International |
| PHILIPPINES | F. A. Davis Company |
| SINGAPORE | Addison-Wesley Publishing Co. |
| SINGAPORE | F. A. Davis Company |
| SINGAPORE | Dilithium Press/Matrix Publ. |
| SINGAPORE | Harper & Row |
| SINGAPORE | Prentice-Hall |

| | |
|---|---|
| SINGAPORE | St. Martin's Press |
| SOUTHEAST ASIA | Little, Brown and Company |
| SYRIA | Prentice-Hall |
| SYRIA | Wadsworth International |
| TAIWAN | Addison-Wesley Publishing Co. |
| TAIWAN | Bantam Books |
| TAIWAN | Educational Testing Serv. |
| TAIWAN | Elsevier-Science Publ. |
| TAIWAN | Encyclopaedia Britannica |
| TAIWAN | Hammond Inc. |
| TAIWAN | Harper & Row |
| TAIWAN | Houghton Mifflin |
| TAIWAN | William Kaufman |
| TAIWAN | Little, Brown and Company |
| TAIWAN | McGraw-Hill |
| TAIWAN | Macmillan Publishing |
| TAIWAN | C. V. Mosby Company |
| TAIWAN | National Learning Corp. |
| TAIWAN | Prentice-Hall |
| TAIWAN | Quintessence Publishing |
| TAIWAN | Reader's Digest |
| TAIWAN | Rizzoli International |
| TAIWAN | St. Martin's Press |
| TAIWAN | Simon & Schuster |
| TAIWAN | South-Western Publ. |
| TAIWAN | Time-Life Books |

| | |
|---|---|
| TAIWAN | Univ. of Calif. Press |
| TAIWAN | Univ. of Wash. Press |
| TAIWAN | Wadsworth International |
| TAIWAN | Wesleyan Univ. Press |
| TAIWAN | John Wiley & Sons |
| THAILAND | Educational Testing Serv. |
| THAILAND | McGraw-Hill |
| THAILAND | Macmillan Publishing |
| THAILAND | John Wiley & Sons |
| UNION OF SOVIET SOCIALIST REPUBLICS | Congdon & Weed |
| UNION OF SOVIET SOCIALIST REPUBLICS | Simon & Schuster |
| VENEZUELA | McGraw-Hill |

## STATEMENT OF STANLEY GORTIKOV, PRESIDENT, RECORDING INDUSTRY ASSOCIATION OF AMERICA, NEW YORK, N.Y.

Mr. Gortikov. I am Stanley Gortikov, president of the Recording Industry Association of America, whose member companies create and market about 85 percent of the recordings sold in the United States. American record companies create a substantial portion of the recorded music that is enjoyed and acquired throughout the world.

Unfortunately, however, American companies are denied revenues in many of these international markets because American recordings are being manufactured and sold by pirates and counterfeiters for their own profit and without any compensation to American artists and companies who create the recordings that they exploit. Moreover, they do this with the tacit support of their governments.

American music happens to be the most prized in the world and is an important contributor to our balance of payments. Many of the countries best known for commercial record piracy are among the principal beneficiaries of GSP. They are countries to which we extend substantial preferential trade benefits, who are simultaneously denying to American creators and copyright owners the legal rights and enforcement necessary to protect their intellectual property.

Hence, the American recording industry urges Congress to adopt amendments to the GSP to expressly condition the grant of GSP beneficiary status on the provision by each beneficiary of meaningful protection for U.S. intellectual property rights. The American record industry applauds the administration's acknowledgment that preferential trading status ufder GSP should depend in part upon the protection of intellectual property.

But the omission of this critical consideration from the express statutory criteria of S. 1718 renders the legislation inadequate.

First, S. 1718 is a 10-year renewal of GSP. The willingness of the present administration to consider this protection of intellectual property in its GSP determinations by no means insures that future administrations will do the same. Second, the protection of American intellectual property demands express congressional recognition. Congress should put foreign governments on clear notice that their failure to respect intellectual property rights may result in revocation of their preferential trading status.

For these reasons, we recommend an express statutory requirement that the President consider the protection afforded by foreign nations to intellectual property in making his GSP eligibility determinations.

I have the problem actually in front of me here. These are a dozen or so illicit tapes from Singapore. They are part of over 200 that I have in my office. They comprise the product of 20 American companies, over 500 American recording artists, and they represent 213 titles—Johnny Cash, George Benson, Willie Nelson, and on and on.

I was in England not long ago. I was shown there how these identical kinds of recordings can be imported into England and are available for sale in units of one, two, three, four, five—whatever number. Each unit is 180,000 cassettes, each unit, 180,000 lost opportunities—many of those American lost opportunities—to compensate creators and intellectual property owners here in the United States.

For this reason, we urge your consideration of our proposal. Thank you.

Senator DANFORTH. Thank you, sir. Mr. Enyart, are you appearing for Mr. Peterson? Are you the pinch-hitter?

Mr. ENYART. Yes, Senator.

Senator DANFORTH. Thank you. Go ahead.

[The prepared statement of Stanley M. Gortikou:]

# TESTIMONY OF
# STANLEY M. GORTIKOV, PRESIDENT
# RECORDING INDUSTRY ASSOCIATION OF AMERICA

My name is Stanley M. Gortikov. I am president of the Recording Industry Association of America (RIAA), a trade association whose member companies create and market approximately 85 percent of the prerecorded discs and tapes that are sold in the United States.

Our companies also create a substantial portion of the music that is listened to and enjoyed in other nations all around the world. Unfortunately, however, we sell or earn licensing revenues in just a small portion of these international markets. This is because, increasingly, our recordings are being manufactured and sold by pirates and counterfeiters, for their own profit, and without the payment of any compensation to the American artists and companies who created the recordings they exploit. Moreover, they do this with the tacit approval of their governments.

Many of the countries best known for commercial record piracy are beneficiaries of the legislation this Subcommittee is considering today, the Generalized System of Preferences (GSP). In other words, the very countries to which we are extending substantial and significant preferential trade benefits are simultaneously denying to American creators and copyright owners the legal rights and enforcement necessary to protect their intellectual property.

We are here to ask Congress' help in putting an end to this situation. Specifically, we urge Congress to adopt amendments to the Generalized System of Preferences that would expressly condition the grant of GSP beneficiary status on the provision by each beneficiary of meaningful protection for U.S. intellectual property rights.

Such specific amendments are necessary as a clear Congressional confirmation of the Administration's welcome position that it will consider the level of protection afforded to intellectual property by developing nations as one factor in GSP eligibility decisions.*/ To be sure, the American record industry applauds the Administration's acknowledgement that preferential trading status under the GSP should depend in part upon the protection of American intellectual property. But the omission of this critical consideration from the express statutory decision criteria of S. 1718 renders the legislation seriously inadequate for two fundamental reasons.

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*/ The Administration interprets "equitable and reasonable access to the markets" of developing countries -- which is a consideration pertinent to eligibility decisions under Sections 502 and 504 of the proposed legislation -- as implicitly requiring consideration of the protection that developing countries afford to intellectual property. _See_ Congressional Record, August 1, 1983, at S. 11279.

First, S. 1718 is a ten-year renewal of the GSP program. The willingness of the present Administration to take into account the protection of intellectual property in its GSP determinations by no means ensures that future Administrations will do the same.

Second, and even more important, the protection of American intellectual property is a need that demands express Congressional recognition. The importance of intellectual property to the competitive position of U.S. producers in world markets cannot be overstated, and Congress should put foreign governments on clear notice that their failure to respect intellectual property rights may result in revocation of their preferential trading status. Non-binding interpretations of statutory language by the Executive Branch -- however well-intentioned -- will not suffice for this purpose.

For these reasons, the legislation to renew the GSP should incorporate an express statutory requirement that the President consider the protection afforded by foreign nations to intellectual property in making his GSP eligibility determinations. It should also require periodic reports to the Congress on the progress of GSP beneficiary nations toward the goal of effective protection for all forms of intellectual property.

## RECORD PIRACY AND COUNTERFEITING IN THE DEVELOPING COUNTRIES

American recording companies export their creative products in two ways: by licensing the right to reproduce and distribute their recordings overseas and, to some extent, by directly exporting prerecorded discs and tapes. Unfortunately, both licensing and direct export revenues are being substantially and rapidly eroded by record pirates and counterfeiters who openly reproduce American records and tapes without the authorization of, or the payment of compensation to, the creators and copyright owners of these recordings. The International Federation of Phonogram and Videogram Producers (IFPI), the international association of recording industry associations, estimates that the world market for such illicit recordings was approximately $515 million in 1982, of which about half probably represents unauthorized sales of recordings originally created and owned by United States recording companies and artists.

The problem of record piracy and counterfeiting is especially acute in the developing countries of Asia, Africa and Latin America. In those regions, vast numbers of American sound recordings, typically in the form of tape cassettes, are duplicated and sold in total disregard for applicable principles of copyright protection.

As a result, U.S. sales and licensing revenues in many developing countries are substantially displaced. This problem is compounded by the export of pirated and counterfeit recordings from the developing countries to other parts of the world.

I am attaching to my testimony a survey of piracy and counterfeiting throughout the developing nations that RIAA prepared for the International Trade Commission. To highlight the severity of the problem, however, consider the following examples.

In Singapore, approximately 90 percent of all sound recordings manufactured or sold in 1982 were pirated or counterfeit. Counterfeiters and pirates in Singapore exported about 70 million recordings throughout the world in 1982, and an additional 15 million unauthorized recordings were produced for domestic use. A substantial proportion of these recordings were of American origin.

Record piracy and counterfeiting is also extensive in *India*. In 1982, approximately 95 percent of India's record market was supplied by counterfeiters and pirates. Total sales of unauthorized tapes and records exceeded $77 million.

Some of the other developing nations where unauthorized recordings have a substantial share of the domestic market include *Taiwan* (65% of the tape market), the *Philippines* (40% of the market), *Portugal* (70% of the tape market), *Korea* (25% of the tape market), *Thailand* (10% of the tape market), *Peru* (70% of the tape market), *Chile* (50% of the tape market), and *Mexico* (40% of the tape market). As this illustrative list suggests, pirates and counterfeiters pervade the developing world, and as is demonstrated in the Table on page 8, pirate activity is particularly intense in many of the nations that are the leading beneficiaries of the GSP program.

The fundamental reason for piracy and counterfeiting in developing nations is the absence of effective legal mechanisms for the protection of copyright holders. In some countries, the law provides no copyright protection whatsoever for sound recordings and other important forms of intellectual property. In other countries, copyright protection exists, but American nationals have no effective right of action and the foreign government is unable or unwilling to enforce the law itself. In every developing nation that tolerates pirates and counterfeiters, however, one common element exists: counterfeiters and pirates -- who often have considerable political clout -- benefit from the absence of effective copyright protection, and their governments to date have had little incentive to remedy the problem.

The time has come for the United States to use its trade laws to provide an incentive for developing nations to afford adequate protection for the intellectual property rights of Americans.

## COPYRIGHT PROTECTION AND THE GENERALIZED SYSTEM OF PREFERENCES

The Generalized System of Preferences provides substantial economic benefits to the developing countries. In 1982, GSP-eligible imports exceeded $17 billion, and actual duty-free imports under the GSP program amounted to over $8.4 billion.

Listed in the Table on the following page are each of the nations that were principal beneficiaries of GSP in 1982 for which we have market share data on record piracy.

## Principal Beneficiaries[1] of GSP (1982)

| Country | Pirate Share of Record & Tape Market (%) | GSP Imports[2]: As Percentage of Total GSP Imports | GSP Imports[2]: As Percentage of Total Imports From Country |
|---|---|---|---|
| Taiwan | 65[3] | 27.7 | 26.2 |
| Korea | 25[3] | 12.9 | 19.3 |
| Mexico | 40[3] | 7.1 | 3.9 |
| Singapore | 90 | 5.1 | 19.6 |
| India | 95 | 2.2 | 13.6 |
| Thailand | 10[3] | 1.9 | 18.3 |
| Chile | 50[3] | 1.8 | 22.5 |
| Phillippines | 40 | 1.6 | 7.6 |
| Peru | 70[3] | 1.2 | 9.5 |
| Portugal | 70[3] | 1.2 | 36.4 |

1/ As measured by country's share of total duty-free imports under GSP.

2/ Percentages are calculated using dollar value of actual duty-free imports under GSP.

3/ Data for tape market only.

Data Sources: IFPI, U.S. Bureau of the Census, Office of the U.S. Trade Representative

The foregoing Table demonstrates that many of the benefits of the GSP program inure to nations where record piracy and counterfeiting are rampant, and that the same countries to which the United States is extending preferential trade benefits are freely expropriating our intellectual property. They copy our creative works and sell them within their own borders, displacing any prospect for sales by American producers. Even worse, they export their unauthorized copies of our creative works to other countries, further displacing sales of our legitimate products. This is fundamentally unfair.

It seems only reasonable to expect that, in return for the substantial benefits that the GSP program confers on developing countries, their governments should be required to protect the intellectual property rights of U.S. copyright owners. GSP represents an effort by the United States to help developing countries expand the industrial base that is vital to their economies. All we seek in return is an assurance of protection for the intellectual property that is vital to our economy.

The protection of intellectual property is essential not only for the record industry, but for every other segment of the American music industry that depends on the sale of records -- publishers, songwriters, musicians, recording artists, and the tens of thousands of workers involved in the creation and dissemination of music. Indeed, there can be no doubt that intellectual property of every kind is of increasing importance to the U.S. economy and the competitive posture of the United States in international trade. As other witnesses before this Subcommittee will testify, protection of this property is vital for every industry in which patents, trademarks and copyrights are important.

RIAA respectfully submits, therefore, that Congress should condition GSP beneficiary status for developing nations on meaningful and effective protection for the intellectual property rights of U.S. producers. The GSP legislation should explicitly require the President to assess the adequacy of such protection in his decisions regarding GSP beneficiary status, and should require denial of such status where the lack of protection is egregious. It should also require Presidential reports to the Congress --

perhaps biennially -- on the progress of GSP beneficiaries toward the elimination of counterfeiting and piracy for all forms of intellectual property.

As to sound recordings, such legislation would stimulate many developing nations to enact or to enforce anti-piracy and anti-counterfeiting laws. Significant proposals for reform are already under consideration in Taiwan and in the Philippines, and the government of Singapore is in the process of drafting new copyright legislation. An intellectual property amendment to the GSP legislation would send a timely message to these governments encouraging the passage of new and effective copyright measures. It would encourage other nations to follow suit, and would provide an incentive for vigorous enforcement of copyright laws in all developing countries.

The economic burden of copyright enforcement on the developing countries would be minimal. In fact, the absence of effective copyright protection in the developing countries discourages foreign investment by recording companies, publishers, and other corporations whose revenues depend significantly on the protection of copyrights. And the absence of effective copyright protection for domestic record companies, musicians and songwriters in such countries destroys the incentive for the development of local talent.

The force of these arguments is inescapable. Indeed, Congress has already considered the intellectual property issue in a similar context -- the Caribbean Basin Initiative (CBI) -- and resolved the issue much the way that I and other witnesses before this Subcommittee advocate today. In the CBI legislation (Public Law 98-67, August 5, 1983), Congress has provided in Section 212(b) that beneficiary status must be denied to a country that "has taken steps to repudiate or nullify . . . any patent, trademark or intellectual property" of United States citizens or corporations if the effect of such action is to "nationalize, expropriate, or otherwise seize ownership" of such property. Moreover, in Section 212(c), Congress expressly requires the President to consider intellectual property issues in his decisions on whether to confer beneficiary status on individual nations:

> "In determining whether to designate any country a beneficiary country under this title, the President shall take into account -- . . .
>
> (9) the extent to which such country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property, including patent, trademark, and copyrights;" . . .

The basic approach of the CBI legislation, which is a combination of carefully drafted mandatory and discretionary decision criteria for the President, provides a useful model for intellectual property amendments to the GSP legislation.

## CONCLUSION

Record piracy and counterfeiting are serious and growing problems, especially in the developing nations. The record industry is just beginning to ascertain the scope and economic implications of these problems.

Moreover, the valuable rights in books, motion pictures, computer software, trademarked products and patented inventions are also subject to increasing erosion by unscrupulous producers in countries that do not recognize or enforce the intellectual property rights that have been so essential to the economic advancement of Western nations. An intellectual property amendment to the GSP legislation would be an important step toward the amelioration of this significant and growing problem.

ATTACHMENT

# STATEMENT OF
# RECORDING INDUSTRY ASSOCIATION OF AMERICA, INC.

BEFORE THE
UNITED STATES INTERNATIONAL TRADE COMMISSION

RE: THE IMPACT OF FOREIGN PRODUCT
COUNTERFEITING ON THE U.S. RECORDING INDUSTRY

SEPTEMBER 19, 1983

# INTRODUCTION

This Statement is submitted by the Recording Industry Association of America, Inc. ("RIAA") for use by the U.S. International Trade Commission ("ITC"), in connection with its investigation into the effects of foreign product counterfeiting on U.S. industry. Several of RIAA's member companies have received, and will be responding separately to, the ITC's questionnaire. The purpose of this statement is to provide an industry-wide overview of the impact of illicit foreign copying of domestic sound recordings, and to recommend constructive steps for U.S. government action.

The RIAA is a not-for-profit New York corporation, whose membership includes recording companies which create and market more than 85% of the authorized prerecorded records and tapes manufactured and sold in the United States. (See attached list of member companies.) One of RIAA's basic responsibilities is to represent its membership before legislative, judicial and regulatory bodies with respect to federal, state and local legislation and regulations affecting the entire recording industry. The RIAA is intimately acquainted with the problems of foreign record counterfeiting both through its efforts to combat international trade of unauthorized recordings and through its association with the International Federation of Phonogram and Videogram Producers ("IFPI"), a 615-member association of national trade associations and record companies in 69 countries. Through its network of international members, the IFPI continuously collects data relating to the unauthorized duplication and unauthorized sale of sound recordings throughout the world. The statistical data presented herein are provided by the IFPI and its members. (See also attached IFPI 1982 statistical brochure.)

## THE NATURE OF THE PROBLEM

The U.S. recording industry faces a dual threat from illicit foreign copying of its domestically created products. In the first place, its overseas sales of domestically created and foreign produced sound recordings are displaced by foreign produced *counterfeit* discs and prerecorded tapes. Since pre-recorded discs and tapes are usually not shipped in export, the manufacture of the discs and tapes embodying the U.S. sound recording generally does not take place within the U.S.. Rather, the U.S. master recording is shipped to foreign countries for manufacture of copies for sale there. As a result, most foreign counterfeit recordings which would fall within the definition of "counterfeit goods" set forth in the ITC's Notice of Investigation, (in that both the sound recording and the trademark or trade name on the packaging are duplicated without consent) actually fall outside the investigation, because the physical manufacturing of the product being counterfeited occurs outside the U.S.. Secondly, the overseas market for U.S. recordings is adversely affected by *pirate* records and tapes, *i.e.*, unauthorized duplications of sound recordings packaged and labelled differently than the legitimate originals. Although pirate recordings do not necessarily involve any unauthorized reproduction of the trademark or trade name on the packaging, and may not, therefore, fall literally within the ITC's definition of "counterfeit goods," they do involve the unauthorized reproduction of copyrighted material and should, in that sense, be considered "counterfeit goods."[1]

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[1] Under certain circumstances, a musical group's name may be protected as a trademark, so that unauthorized use of the group's name constitutes a trademark infringement. *See In Re Polar Music International AB* (C.A.F.C. Appeal Nos. 83-501 and 83-514, August 3, 1983), reported in 26 *BNA's Patent, Trademark and Copyright Journal* 329 (August 11, 1983) (music group's name held registrable as trademark for sound recordings). Under such circumstances, a piratical recording which bears an unauthorized representation of the group's name would constitute "counterfeit goods" as that term is defined in the ITC's Notice of Investigation.

Accordingly, this Statement includes data pertaining both to record counterfeiting and to record piracy. There are several reasons why the data on piracy is relevant to this investigation and should be considered by the ITC, along with the data on trademark counterfeiting.

First, separate figures for pirate and counterfeit records and tapes are not available. Thus, as a practical matter, it would not be possible to exclude the data relating to pirate recordings without excluding the data relating to counterfeit recordings.

Second, the data relating to piracy is relevant to the problem of counterfeiting because pirate records and tapes are the functional equivalent of other counterfeit goods. The product itself -- the sound recording -- is duplicated without consent and is an exact musical replication of the original legitimate recording. The only part that is not duplicated is the packaging. Since it is the name of the artist and/or the song itself that sells the record, the pirate does not need to duplicate the record company's trade name or trademark on the packaging in order to successfully sell his product to the public in the place of the legitimate product.

Third, foreign piracy and counterfeiting of copyrighted works are often carried on by the same individual or entity, or related businesses. Any efforts to combat the counterfeiters should obviously encompass the pirates as well.

Finally, it should be noted that sound recordings are not unique in facing this dual problem of piracy and counterfeiting. Motion pictures, other audiovisual works, books and other copyrighted works are unlawfully duplicated and sold overseas, often without any unauthorized reproduction of a trademark or trade name. The data collected by these other major industries on the effects of foreign piracy and counterfeiting of copyrighted works will provide an important source of additional information for this investigation.

## THE EXTENT OF THE PROBLEM

The U.S. sound recording industry suffers the loss of massive revenues as a result of overseas market displacement by counterfeit and pirate products manufactured and sold in foreign markets. Information compiled by IFPI for calendar year 1982 indicates that the total sales of counterfeit and pirate sound recordings manufactured and sold outside the United States reached 210 million units, representing $515 million in illegal sales abroad. Based upon worldwide market shares for different nations' music, it is probable that more than half that total relates to recordings originally created and owned by United States recording companies, performers and other creators. The enormous sales displacement which results from these illicit sales affects not only U.S. based companies, but also their foreign subsidiaries, divisions, joint venturers and licensees. This is because U.S. recording companies manufacture their foreign product on a national or regional basis, and while they provide the original master and artwork negatives for the authorized foreign representatives, the albums themselves are usually manufactured directly by those foreign companies (which are subsidiaries, divisions, joint venturers and/or licensees of the U.S. company).

One basic explanation for the continued growth of foreign product counterfeiting and piracy is that many nations around the world have yet to legislate against record piracy and counterfeiting. In fact, half of the member countries of the United Nations have yet to accept the principle of a reproduction right in sound recordings. In addition, in many countries criminal penalties against these crimes are inadequate and, thus, enforcement and prosecution is marginal.

## ASIA/PACIFIC

Looking around the world, some of the biggest problem areas for piracy and counterfeiting are in Asia. Singapore is an excellent example of the magnitude of the problem, where it is estimated that 70 million counterfeit and pirate sound recordings were exported in 1982. This incredible total, plus an additional 15 million counterfeit units produced in Singapore for internal consumption, accounted for 90% of all sound recordings manufactured or sold in Singapore last year. A large percentage of the unlawfully duplicated product was U.S. owned. This situation persists despite the energetic efforts of IFPI to combat the problem. During the period between June 1982, to April 1983, 46 raids were carried out and a total of 396,837 cassettes were seized in Singapore. Attached to this statement is a photograph displaying only one each of 250 different counterfeit and pirate cassettes seized and acquired in Singapore this year. They are grouped and identified by the U.S. company which owns the sound recording master. They represent recordings owned by 20 U.S. companies, embodying 505 American artists and 213 individual titles.

IFPI currently has in its possession in Singapore over 650,000 counterfeit cassettes which were seized during raids. Although this is a considerable amount, it represents less than one percent of the estimated illicit export production of Singapore during 1982. Pirate and counterfeit manufacturers and exporters in Singapore have now retained a special counsel for the sole purpose of defending every counterfeiting and piracy prosecution brought by the government in that nation.

In addition, the 1968 anti-piracy statute, under which prosecutions are brought in

Singapore, is poorly drafted and has given rise to many problems. In a case in July, 1984, a defendant successfully appealed his conviction on the grounds that the prosecution had failed to prove lack of consent. The Chief Justice ruled that the prosecution must prove that no consent had been given by the copyright owner for the manufacture of the alleged infringing copies to anybody anywhere in the world. He also ruled that the evidence had to be given directly by the copyright owner or from the witness' personal knowledge. In most cases in Singapore, the evidence of a local licensee would not be acceptable. Therefore, the decision has restricted the ability of the prosecution to bring cases involving foreign repertoire such as U.S.-owned sound recordings, in that it is now necessary to call each copyright owner to give direct evidence as to lack of consent.

Indonesia is an oil-rich nation with a population of 150 million, and thus would ordinarily be a commercially attractive foreign market for the sale of U.S. sound recordings. However, the Indonesian Copyright Law does not give specific protection to sound recordings, and Indonesia has refused to adhere to any of the several international conventions recognizing copyright protection for sound recordings. As a result, 40 million counterfeit and pirate tapes were manufactured and sold in that nation last year, with an estimated market value of $75.7 million (U.S.), which constituted 50% of the over-all market in Indonesia.

In India, it is estimated that more than 30 million counterfeit and pirate tapes were manufactured last year, accounting for 95% of that country's sound recording market and $77.2 million (U.S.) in sales. One major cause for the continuing difficulties in the Indian market is the refusal of government officials to recognize phonorecords as media of culture and education, thus relegating them to an extremely low priority for protection by government and law enforcement agencies.

The Indian Phonographic Industry has attempted to conduct an anti-piracy campaign during the past two years, but found that the time and money expended in such efforts produced little or no return. The yield of seized product has been gradually diminishing because of suspected corruption in local government, particularly in Delhi, the largest pirate-center. This resulted in security leaks and advance notice of planned searches. These unfruitful raids in India are risky, because they invite defamation charges by those from whom nothing incriminating is recovered, and leads courts to refuse to issue search warrants to prevent harassment of ostensibly innocent traders.

Korea experienced the sale of 1.75 million units of pirate and counterfeit tapes in 1982. This constituted 25% of that market, with the illicit activity valued at $1.3 million (U.S.). In Thailand, 10% of the tape market was counterfeit or pirate in 1982. This amounts to over 900,000 illicit sound recordings valued at over $1.2 million (U.S.). Malaysia had, 2.7 million counterfeit and pirate tape recordings in its market, valued at approximately $3.4 million (U.S.) and constituting 45% of that market in 1982. The Philippines had a 40% illicit penetration of counterfeit and pirate product in its tape market, with those 2.5 million unauthorized units valued at $5.5 million (U.S.).

In Taiwan, a massive quantity of illicit discs and tapes exists. Pirate and counterfeit discs accounted for 65% of that market in 1982, with an estimated 1.62 million units valued at $1.2 million (U.S.) During that same period, 60% of the tape market in Taiwan was made up of illicit product, representing at least 3.6 million pirate and counterfeit units, valued at $2.7 million (U.S.).

## MIDDLE EAST

In the Middle East, the situation is no better. In Bahrain, Kuwait, Saudi Arabia, Syria and The United Arab Emirates, 95% of the music cassettes manufactured and sold are counterfeit and pirate unauthorized duplications. Other countries in the region, where counterfeit and pirate tapes account for approximately 90% of the market, include Lebanon, Morocco, Tunisia and Turkey.

Egypt is the most important market in the Middle East because of its massive population and position as cultural leader of the Arab world. In 1982, 55% of the market was dominated by counterfeit and pirate tapes. Law enforcement authorities have only just begun to show interest in this problem, confiscating approximately 70,000 illicit cassettes in 1982. Although Egyptian authorities will now act against pirates, the complainant must show that he is the authorized local representative of the victimized recording company and must be able to indicate the place where the illict sound recordings are being manufactured. The local Egyptian recording industry indicates that there are two major pirate manufacturers in Egypt and that both are known to the police. The authorities have chosen to accept the claims of these pirates that they represent international recording companies and have yet to accept the validity of evidence presented by IFPI disputing these claims.

In Kuwait, the problem stems from a lack of copyright legislation. Although the authorities actively protect Arabic recordings throughout the region (by means of unfair competition law), international repertoire such as United States sound recordings remain unprotected in that country.

In Morocco, over one million counterfeit and pirate tapes were manufactured last year, and the preponderance of these goods were exported to Europe and other foreign markets. Because of the small domestic market, there has yet to be any government sponsored anti-piracy activities.

Tunisia, although a small market, suffers a 90% penetration of illicit sound recordings. Tunisia is also important symbolically as the the home of several important Arab organizations, including the Arab League. Despite this and Tunisia's strong cultural and musical heritage, there have been no anti-piracy activities by government and law enforcement agencies there.

## AFRICA

A situation even worse than that in the Middle East countries exists in Nigeria, the most populous country in Africa. According to our reports, in that nation of almost 100 million people, no legitimate music cassettes were manufactured or sold during 1982. Yet, sales of counterfeit and pirate music cassettes in excess of $22 million (U.S.) were monitored during that same time period. The local industry reports that counterfeit and pirate reproductions account for almost 100% of the cassette market and a large proportion of the disc market.

While several industry-backed lawsuits and educational campaigns have been undertaken, there is still a lack of interest on the part of government and law enforcement bodies to deal with this situation.

## LATIN AMERICA

Looking to Latin America, several countries suffer from extensive penetration of the sound recording market by counterfeit and pirate tapes. In Panama, as much as 80% of the musical tape market is dominated by counterfeit and pirate goods. In Peru, the percentage of illicit tape recordings is approximately 70%. Bolivia and Chile both report that approximately 50% of the tape recordings manufactured and sold there are counterfeit or pirate. The huge Mexican market had a 40% penetration of counterfeit and pirate tapes in 1982 - equalling approximately 11 million illicit units or $30 million (U.S.) in lost retail sales.

## EUROPE/NORTH MEDITERRANEAN

In Europe, major pockets of counterfeiting and piracy also exist. In Greece last year, $19 million (U.S.) in pirate and counterfeit tapes were manufactured and sold, accounting for nearly 77% of that entire market. The main obstacle to a major anti-piracy campaign in Greece is the inadequacy of the antiquated 1920 Copyright Law, which does not recognize the rights of sound recording owners and producers. This, in effect, means that all anti-piracy actions have been dependent on the musical composers' society (AEPI) to take legal action under the Greek Copyright Law. Moreover, the penalties under this Law are too inadequate to seriously deter the pirates.

In Cyprus, piracy and counterfeiting are widespread. Under Cypriot Copyright Law, protection for sound recording owners and manufacturers does not extend to international recordings. To date, the Cypriot government has shown no interest in extending legislative protection of sound recordings to international repertoire such as U.S. owned sound recordings.

In Portugal during 1982, 4.2 million units of counterfeit and pirate tapes were manufactured and sold, representing a 70% share of that market. Despite the huge quantities of counterfeit sound recordings in their market, Portugese authorities reported seizures of only 25,000 illicit cassettes from manufacturers during 1982, constituting a mere half of one percent of the problem. Portugal is also a trans-shipping point for illicit Singapore recordings, which have been offered for sale in Europe in container-lot quantities of 180,000 units per container.

In Italy, 33% of the tapes and 5% of the discs manufactured and sold in 1982 were counterfeits and pirates, valued at $21.2 million (U.S.). One example of the depth of the problem in Italy is reflected in a raid conducted on June 15, 1983 in the area of Monterenzio near Bologna. Goods seized included 20,000 counterfeit music cassettes with fake SIAE stamps (SIAE stamps are purchased in Italy by the payment of royalties due to music producers and placed upon authorized phonorecords to indicate their legitimacy), 4 million counterfeit SIAE stamps, 700,000 cellophane "envelopes" each bearing a counterfeit RCA trademark, 3 duplicating machines, counterfeit SIAE stamps for imported discs and various other paper materials for use in counterfeiting. Despite this one spectacular raid, an estimated 5.5 million counterfeit and pirate tapes were manufactured in Italy in 1982, and all anti-piracy efforts that year resulted in the seizure of only about 660,000 of those illicit sound recordings.

In The Netherlands, the industry reports that only 3% of the disc market and 5% of the tape market is comprised of counterfeit and piractical sound recordings.

However, The Netherlands has become a major trans-shipping point for counterfeit sound recordings to and from the rest of the world. As one example, in July of this year, one shipment of over 413,000 counterfeit Motown LP sound recordings of American artists such as Stevie Wonder, Michael Jackson, Diana Ross and The Commodores was seized in The Netherlands. Further investigation indicated the probability that the product was counterfeited in Spain and intended for distribution throughout Europe. The counterfeiters in this case intended to ask for $4.00 per unit, as compared to current legitimate retail prices in the $8.00 to $10.00 range. Because The Netherlands has no importation regulations, it will most likely continue as the most popular country in Europe for such trans-shipments.

## CONCLUSIONS

1. Foreign piracy and counterfeiting represents a major economic problem for the U.S. music and sound recording industries. The estimated total sales of counterfeit and pirate U.S.-owned sound recordings overseas last year was well over $250,000,000. (approximately 50% of the estimated $515 million in counterfeit and pirate sales outside the United States in 1982)

2. This loss adversely affects the U.S. music and recording industries in the following ways:
   a) loss of potential sales revenues worldwide;
   b) higher unit costs and prices for legitimate recordings;
   c) extra costs for anti-piracy efforts;
   d) reduced contribution to U.S. balance of trade;
   e) prevalent availability of lower quality recorded music in illicit recordings, thus diminishing perceived value of the product;
   f) reduced income for United States creators, performers, copyright owners, unions, recording companies;
   g) reduced capital for new United States artists, talent development, and diversity of new music; and
   h) lost income for legitimate foreign divisions and licensees of U.S. companies.

3. The primary country sources of piracy/counterfeiting are (listed in alphabetical order):
   a) Argentina
   b) Brazil

c) Greece

d) India

e) Indonesia

f) Italy

g) Malaysia

h) Mexico

i) Nigeria

j) Philippines

k) Portugal

l) Saudi Arabia

m) Singapore

n) Taiwan

o) Turkey

p) Venezuela

4. U.S. sound recording companies spend millions of dollars each year in their efforts to combat the worldwide problem of counterfeiting and piracy of sound recordings. Contributions by U.S. companies to the RIAA anti-piracy effort and to IFPI's anti-piracy activites total several million dollars each year. In addition, several companies have experimented with "anti-counterfeiting" or "counterfeit detection" devices. Unfortunately, despite extensive experimentation and continuing research and development, no one has yet discovered a system effective in either preventing unauthorized duplications of sound recordings or a system allowing for effective detection of counterfeit sound recordings in retail stores.

For example:

- Warner Communications Inc. has engaged in a program to affix 3M designed and produced retro-reflective stickers on their sound recordings and video products.

- Chrysalis Records has used "anti-counterfeit" insert cards produced by Light Signatures and based upon the concept of reading and encoding the unique "fingerprint" of a piece of paper on that same piece of paper.

- MCA Records has tried a system of heat sensitive memory ink stickers marketed in the U.S. by Jack Cummings Associates.

- Motown Records has experimentally marketed product with devices from OPROC based upon bar code technology, and has also tried "Reflectolon" stickers produced by Armstrong.

Other companies are exploring systems proposed by Polaroid ("Polaproof"); American Bank Note and U.S. Bank Note (based upon intaglio printing with latent images); American Bank Note again (holographic images); Graphic Security Systems (scrambled indicia); and many others. In addition, recording companies continue to do research and development in-house in hopes of developing an effective anti-counterfeiting system.

Finally, U.S. recording companies have increased the security involved in the duplication and transportation of masters and negatives for artwork. In addition, some companies have begun to code their graphics and encode their masters as additional security measures.

However, these attempts at self-help have not proven effective, and nothing to date has succeeded in stemming the tide of piracy. Aggressive government action is the only solution to this problem.

## RECOMMENDATIONS

1. Our recommendations for U.S. government action are:
    a) Appropriate diplomatic action targeted at offending countries to enforce existing laws where they exist; and, where they don't exist, to enact new copyright and anti-piracy statutes with adequate criminal penalties to protect all sound recordings, including U.S. owned repertoire;
    b) Appropriate diplomatic action in the offending countries to gain their adherence to applicable international copyright treaties and conventions;
    c) Aggressive programs within U.S. embassies and trade missions abroad in combatting foreign piracy and counterfeiting; and
    d) Economic and trade sanctions against offending countries to assure the same rights, protections, and legitimate market access which those countries enjoy from the U.S.

2. To achieve these objectives, we strongly recommend enactment of "reciprocity" legislation such as that contained in S. 144. This bill would strengthen the President's ability to respond effectively to unfair trade practices abroad, including those described in this Statement.

## STATEMENT OF WILLIAM N. WALKER, MUDGE ROSE GUTHRIE ALEXANDER & FERDON, WASHINGTON, D.C.

Mr. **Walker.** May I say a word just to introduce the coalition spokesmen, Senator? My name is William N. Walker. I am counsel to the International Counterfeiting Coalition, composed of over 100 companies concerned with trade in counterfeit commercial merchandise. In fact, the coalition is having its annual meeting in Orlando, Fla., even as we speak, and we reluctantly left Orlando bright and early this morning to come and present the coalition's views.

The beneficiaries of GSP are amongst the principal sources of counterfeit commercial merchandise which enters the United States. The coalition is of the view that conditioning GSP status upon improving intellectual property rights and improving the protection against the export of counterfeit merchandise would be a strong inducement to an improved situation where there are, in fact, stronger intellectual property laws enforced in these countries and steps taken to prevent the export of counterfeit commercial merchandise.

For that reason, the basic position of the coalition, which will be expressed in a bit more detail by my colleagues, is to endorse S. 1718 with certain amendments to make it plain that the intellectual property law component should be strengthened. Thank you, sir.

## STATEMENT OF JAMES R. ENYART, DIRECTOR, INTERNATIONAL GOVERNMENT AFFAIRS, MONSANTO CO., ST. LOUIS, MO.

Mr. **Enyart.** I am Jim Enyart, director of international government affairs for the Monsanto Co., and I am appearing today in behalf of Don Peterson, the vice president of the International Anti-Counterfeiting Coalition and also associate general patent counsel of the Monsanto Co.

As Bill has just stated, we do strongly support the renewal of the GSP program, but only if the program is amended to provide that benefits be conditioned on recipient countries providing a reasonable standard of protection for intellectual property rights—patents, trademarks, copyrights, trade secrets.

The basis of this is simple. Counterfeiting and piracy of U.S. products and technology is a large and growing problem. Our Coalition is a good example of the size of it. From a few companies only 2 to 3 years ago, it has grown to over 100 companies now and it involves computer companies—it involves chemicals like my company. It involves textiles, automotive parts—virtually anything you can think of.

Senator **Chafee.** I can understand the intellectual properties, but how do you get into ag chemicals? How do you get the counterfeit there?

Mr. **Enyart.** Ag chemicals are very similar to drugs in this respect—it takes an enormous amount of research and development to come up with these products. But the manufacture of the products is not that complicated. We try to patent our products world wide. Our premier product has 900 patents on it around the world, yet in Taiwan we can't get an adequate patent. There is a Taiwan company virtually set up in a garage which makes our product and then ships it all over the world.

Senator **Chafee**. Not into the United States, though?

Mr. **Enyart**. Not into the United States.

Mr. **Chafee**. I noticed that previously someone was talking about England—in London. Now, can't you get protection there?

Mr. **Enyart**. Yes. For us.

Mr. **Gortikov**. Yes, Johnny Cash tapes in London. Yes, but protection is after the fact—after the deed is done.

Senator **Chafee**. That is what all protection is, isn't it?

Mr. **Gortikov**. Yes, but the worst part—the worst importation in the case of recordings—is not England, it is throughout the Middle East and other areas where the restrictions and the controls are not as good.

Senator **Chafee**. All right. Thank you.

Mr. **Enyart**. That actually leads to my second point, and that is that the advanced developing countries are the source of most of these illicit and, I might say, sometimes dangerous goods. And, of course these are the very countries which are the primary beneficiaries of the GSP program.

In our view, the GSP program has two purposes. One is to encourage economic development, and the second purpose of the program is to encourage the adoption of fair and reasonable trade standards and practices by these countries, so that when they do become well developed, we can live with them in the world of international trade.

It is this latter point that is critical with respect to the advanced LDC's that are a source of counterfeit and pirate goods. Their economies are reasonably well developed but they are extremely reluctant to play by internationally accepted rules of fair trade.

It is our firm belief that access to the large and lucrative U.S. market on preferential terms as GSP provides should require in return some reasonable standard of behavior on the part of the recipients.

Senator **Danforth**. Thank you very much. Mr. Haluza.

## STATEMENT OF MARC FLEISCHAKER, GENERAL COUNSEL, MOTOR AND EQUIPMENT MANUFACTURERS ASSOCIATION, WASHINGTON, D.C.

Mr. **Fleischaker**. Mr. Chairman, my name is Marc Fleischaker, and I am another substitute—for Mr. Haluza. I am general counsel of the Motor and Equipment Manufacturers Association. Mr. Haluza is director of government relations, and he is at the meeting which was previously mentioned.

This national trade association represents the interests of more than 750 U.S. companies involved in producing motor vehicle parts and related equipment. We appreciate the opportunity to appear today.

Two minutes is hardly sufficient time to discuss the scope of the problem facing this industry and apparently many others. This problem involves not only economic impact but of particular importance, I note to the chairman, are highway safety risks facing the public as the result of the infiltration of counterfeit parts into the

United States. MEMA hopes that these hearings will spur the administration's interest in using GSP in a positive way to increase the willingness of developing countries to protect U.S. intellectual property rights and observe our laws affecting the public safety and welfare.

Counterfeit motor vehicle parts have become a major industry. Worldwide sales are in the billions of dollars. Aside from damaged reputations, the impact of lost sales is translated directly into lost jobs—20,000 jobs for every billion dollars in sales.

Even more importantly, MEMA and its member companies have not found a single case of a counterfeit part that complies with applicable Federal motor vehicle safety standards. And the statement that I have submitted to the committee includes specific examples of these problems.

We would also welcome the opportunity to provide this committee and its staff with actual examples of counterfeit parts and simulated packaging originating in countries receiving GSP treatment.

In short, renewal of GSP legislation should premise a country's eligibility on showing that the country provides protection for intellectual property rights—trademarks, patents, trade dress—failure to condition eligibility in this way will provide yet another signal that the United States will look in the other direction while our markets are flooded with shoddy products, damaging the trademarks, trade dress, and patents of U.S. companies and threatening the health of U.S. citizens.

Thank you very much.

Senator DANFORTH. Thank you, sir.

[The prepared statement of Marc L. Fleischaker follows:]

**STATEMENT BY**

**Marc L. Fleischaker**
**General Counsel**

**MOTOR & EQUIPMENT MANUFACTURERS ASSOCIATION**

**SUBJECT:**

**RENEWAL OF THE GENERALIZED SYSTEM OF PREFERENCES**

**BEFORE THE TRADE SUBCOMMITTEE OF THE**
**UNITED STATES SENATE COMMITTEE ON FINANCE**

**January 27, 1984**

On behalf of the Motor and Equipment Manufacturers Association ("MEMA"), a national trade association representing the interests of more than 750 United States companies involved in producing motor vehicle parts and related equipment, I would like to thank the Committee for the opportunity to appear and discuss S.1718.

Preliminarily, I would like to observe that two minutes hardly provides the time necessary to discuss the scope of the problem facing our industry. This problem involves not only the economic impact, but of particular importance, the highway safety risk facing the public as a result of the infiltration of counterfeit parts into the United States.

MEMA hopes that these hearings will spur the Administration's interest in using GSP in a positive way to increase the willingness of developing countries to protect the United States intellectual property rights, and to observe our laws affecting the public safety and welfare.

Counterfeit motor vehicle parts have become a major industry. Worldwide sales are in the billions of dollars. Aside from damaged reputations, the impact of lost sales is translated directly into lost jobs . . . 20,000 jobs for every billion dollars in sales.

Even more importantly, MEMA and its member companies have not found a single case of a counterfeit part that complies with applicable federal motor vehicle safety standards. My statement submitted to the Committee includes examples of such safety problems. In addition, we would welcome the opportunity to provide this Committee with actual examples of counterfeit parts and simulated packaging originating in countries receiving special GSP treatment.

In short, renewal of GSP legislation should premise a country's eligibility on a showing that the country provides effective protection for intellectual property rights. A failure to condition eligibility in this way will provide yet another clear signal that the United States will look in the other direction while our markets are flooded with shoddy products damaging the trademarks, trade dress and patents of U.S. companies, and threatening the health of U.S. citizens.

Thank you for your attention this morning and I will be happy to answer any questions you may have.

MEMA members form the very foundation of this nation's automobile and truck industry by supplying components to the vehicle manufacturers . . . as well as replacement parts and related service equipment used in the maintenance and repair of vehicles on the world's highways today.

To put our industry into a sales perspective, the motor vehicle industry represents annual retail sales between $100 and $110 billion. Of that amount, about $45 billion is in the sale of replacement parts used to service vehicles on the road.

With these figures in mind, counterfeit auto parts in all their various forms may account for as much as $9 billion annually worldwide. This figure is conservative, because there is no real way to discover the full scope of the problem . . . but let me assure you that according to all evidence the incidents of counterfeiting is growing in this country . . . and in international trade around the world.

MEMA has been reviewing the problems of automotive product counterfeiting for the past several years. Through the leadership efforts of one of our directors, Mr. Robert Miller, Group Vice President of the Parker Hannifin Corporation, MEMA formalized an Anti-Counterfeiting Task Force to provide a forum and collective voice for the motor vehicle industry in our attempts to deal with this growing problem.

One of the major objectives of the Task Force has been to gather evidence from among our membership as we continue to work toward the identification of the issue from the standpoint of the origins and destination of counterfeit parts, the magnitude of the loss in terms of dollars and jobs . . . and most importantly, the extent of the safety hazard due to the proliferation of these inferior parts.

Our investigations also include non-counterfeit parts which fail to meet existing federal emission and safety standards, as well as the equally dangerous practice of simulation in which the forgery so closely resembles the original that even a knowledgeable consumer would be hard-pressed to tell the difference.

We further realized that even though our industry is one of the country's largest in dollar terms, we are a low-profile industry as far as the consumer is concerned. Even taking into account the consolidated efforts of 750 U.S. manufacturers, most of the awareness of counterfeiting was being concentrated on designer jeans, other designer clothing and specialty items, watches and pens. Therefore, we concluded that we had to have a much larger collective voice to have any chance of bringing the magnitude of the problem to light and to focus attention on the risks to public safety.

Last summer, MEMA's Task Force decided to join forces with the International Anti-Counterfeiting Coalition in that effort to obtain remedial action by our government, including legislation. In addition to MEMA's commitment to IACC, we continue to encourage our members to join and support IACC individually, as well.

Within our industry we had to first define counterfeiting and found that it occurs not only in black and white, but many shades of grey as well.

First there is the pure counterfeit that is a direct copy of the legitimate product. The packaging and exterior appearance of the product is virtually indistinguishable from the original.

A second form of counterfeiting is that in which the package can be different, but the product inside the package bears all identifying marks of the original product.

A third form of counterfeiting is currently defined as trade dress simulation, but in which the rip-off manufacturer carefully removes the trade name so as to avoid litigation under the current definitions of the law. However, to the unsuspecting eye of even the most knowledgeable consumer, the package and product would be virtually indistinguishable from the original product.

Another form of counterfeiting takes place in large vehicle components, such as truck parts, that are not sold in packages. Several examples reported by one of our members, Rockwell Manufacturing, involve truck axles and rear end gears. These products are identified within the trade by their unique serial numbers that also identify the manufacturer. The numbers are usually embossed at one end of the product so as to be clearly visible when stacked on racks in a warehouse. Counterfeits have been found bearing the original manufacturer's serial number and obviously sold to unsuspecting mechanics believing they had bought the originals.

I might add that Rockwell has tried unsuccessfully to obtain trademark rights for its parts numbering system, and as a result has not been able to pursue litigation against the perpetrators.

Ford Motor Company and Volvo have also reported discovery of counterfeit sheet metal, or crash parts for their vehicles.

Finally, there are the indirect forms of counterfeiting through trade dress simulation, in which the names have been changed, but the packaging artwork has been carefully copied to retain the original parts manufacturer's identity. There is only one purpose for this practice . . . to deceive consumers into believing they are buying something they are not. Unfortunately, current legislative efforts are not dealing with this problem, but to the motor vehicle parts industry, it is a major problem.

Simulated packages have fooled even experienced mechanics, so the less qualified public, especially in countries where the Latin alphabet is not used, or the literacy rate low, can be deceived into buying look-alikes and often dangerously inferior copies based on packaging colors or symbols rather than trademarks.

Many of the counterfeit automotive parts have been found to be severely substandard, even though they bear the DOT self-certification mark.

For example, in the case of Ideal turn signal/hazard warning flashers, Parker Hannifin Co., the trademark holder, found they either failed to work entirely, or were well beneath the specifications set forth in FMVSS 108.

In the case of the Edelmann gas cap, we developed one of the most visual examples of the potential dangers posed by counterfeiters. This demonstration was made before the International Trade Commission, both Houses of Congress, and in Paris at a symposium conducted by the International Chamber of Commerce.

In the U.S., both the Environmental Protection Agency and the National Highway Traffic Safety Administration have established standards to regulate hydrocarbon emissions and gasoline leakage that may occur from a vehicle in ordinary use . . . or when subjected to a crash or rollover. For the past 12-15 years, the automobile manufacturers have met this standrd with fuel caps for their vehicles that include a valve designed to contain the sloshing fuel and fumes.

In the area of safety, FMVSS 301 regulates fuel system integrity. The purpose of this standard is to redpce deaths and injury occurring from fires that result from fuel spillage during and after motor vehicle crashes. Anyone who knows of the volatile properties of gasoline will recognize the need for a standard that will contain the fuel in a crash.

Under FMVSS 301, the allowable spillage is one ounce per minute for 30 minutes when the vehicle has rolled over on its side, or is at a 90° angle. There are many points in a vehicle's fuel system that can leak under this condition; therefore, it is vitally important for the fuel tank cap to be as leak-proof as possible, particularly with the added pressure of gasoline forced against it.

In every test we performed before various government agencies, the counterfeit cap failed to prevent fuel leakage under any pressure, while the legitimate cap more than met the test of the standard.

Another example of the safety risks to the public is in the area of automobile drive . . . or V-belts, such as those that drive the vehicle's power steering and brakes, air conditioning and various emission control components. Gates Rubber Company of Denver, Colorado, and Dayco Corporation, Dayton, Ohio, have found substantial counterfeiting of their products, and according to Gates laboratory tests, the fake belts had a load life as low as 5% of their specifications for their products.

Automotive belts have been identified by both the EPA and NHTSA as a product affecting the safe operation and emission system of a vehicle. While a product failure may not cause catastrophic results, the sudden failure of a power steering belt can make manual handling of the automobile difficult, at best.

Consumers have no way of telling if these products are in compliance with Federal Standards, until they fail. The results could be tragic at worst, but at the very least, the consumer is bound to develop a bias against the brand because of the belief that it was genuine.

A person buying a pair of counterfeit jeans in which the seam splits has momentary exposure, but a person who has a motor vehicle part fail faces potentially more serious exposure.

Why then, if these products are regulated by safety standards, can't the Federal government move to take action against these obviously inferior products? The answer is complicated by current law that can pose greater liability for the legitimate manufacturer than the counterfeiter.

Under the requirements of Federal Safety Standards, a manufcturer is permitted to self-certify compliance with the applicable standard and imprint the DOT logo on his product to signify standard compliance. Should a particular brand become suspect as to standard compliance, the NHTSA could open a safety-defect investigation against the manufacturer without either NHTSA or the legitimate manufacturer knowing the particular products in question are counterfeit.

Under these conditions, it is the legitimate manufacturer who pays the cost in lost reputation and goodwill when his name is released to the public as under Federal investigation, plus that company's direct costs to prove the products in question are counterfeits.

Once the product is determined as a counterfeit, NHTSA or the Federal government has very little recourse, since almost all of the counterfeits are foreign made, usually from the Far East.

Our Task Force chairman, Bob Miller, relates the story of a visit he received from a Taiwanese manufacturer who offered him his own brand of flasher, as well as providing samples of another leading brand of a U.S. manufacturer. Both samples carried the DOT self-certification mark. The company representative did not know what the DOT marking meant, but stated that they simply copied the mark along with everything else on the original product, including the manufacturing date code. When Bob Miller suggested to the Taiwanese representative these activities represented a series of unlawful acts, he was advised these laws meant nothing in Taiwan.

All of this is further complicated by the fact that NHTSA has no authority to quarantine, or hold, imported products at the port of entry pending verification of compliance with safety standards, since it is a self-certification program and many legitimate products are also imported.

What is even more frustrating is the fact that the products are in general commerce throughout the U.S. before NHTSA even begins its investigation, so even if a non-complying counterfeit is uncovered, affecting a recall is impossible, and assessing penalties on the U.S. firm that imported the products an unrealistic deterrent.

In the case of the gasoline caps, the Federal government sets the standard for the vehicle's fuel system, which includes tank, fuel line connections, filler neck and gas cap. The vehicle manufacturer then establishes its own requirements for each component. Thus, under present law, NHTSA could not even prosecute a gas cap manufacturer or importer, because all the liability rests on the vehicle manufacturer.

I should also like to point out that counterfeiting of motor vehicle parts is not confined to high volume items, but in fact has been uncovered in some of the more sophisticated, rarely replaced components. For example, Ford Motor Company has discovered counterfeit engine modules, or onboard computers, and ignition modules as well as crash parts.

Counterfeiting of trademarked motor vehicle parts, or any other proprietary product, is an erosion of the good faith by which nations do business with other nations. It wears away the trust of the public in trade names which they have come to believe in.

We at MEMA are committed to combatting counterfeiting at all levels and in all its forms.

However, our experience has shown that counterfeiting of safety-related products, such as those in automobiles and aircraft, poses a threat to the very lives of unaware consumers.

It is a situation which must be stopped before it assumes even more serious proportions.

Senator **Chafee**. Mr. Chairman, may I ask one question? Mr. Hoopes, you were here earlier and heard the testimony about removing some of the top countries from the GSP. And if that were done—for instance, Taiwan, Hong Kong, or South Korea—that would remove the possibility of us taking this action that you are recommending. What is your attitude on that?

Mr. **Hoopes**. I would have to say, Senator, that our perspective is perhaps a special one, but it is only the inclusion of these countries in the GSP system that gives us any leverage through the U.S. Government to strengthen their copyright laws and their copyright enforcement.

So, generally speaking, we would be opposed to their graduating out of the GSP, at least at this time.

Senator **Chafee**. Because you would lose this leverage?

Mr. **Hoopes**. Correct.

Senator **Chafee**. Now, what about under GATT. There is nothing currently under GATT that permits us to take some retaliation?

Mr. **Hoopes**. Senator, I am unaware of the specific features of the GATT on this point, but I can tell you as a matter of practice that we have had almost zero leverage in our dealings with less developed countries on copyright questions.

Senator **Chafee**. Finally, it would seem to me—I noticed a list of the countries and the U.S. companies that are affected by this—and it is a very impressive list, plus the number of countries that are involved. Everybody seems to be getting into it, and I suppose—with the music tapes even moreso, since it is so simple. I assume that this problem is growing exponentially. It is increasing tremendously over the past several years. Is that correct?

Mr. **Hoopes**. You are absolutely correct, Senator. It is a function of the exploding communications revolution, and it certainly makes the policing of the protection of intellectual property of all kinds infinitely more difficult than it has been.

Senator **Chafee**. Now, I notice nobody on the list—or at least I believe—is representing the motion picture industry. Are they affected also?

Does anybody have the brass to reproduce an entire film and peddle it?

Mr. **Walker**. In fact, Senator Chaffee, the motion picture association is a member of the International Anti-Counterfeiting Coalition, and their views coincide with ours, which parallel those that Mr. Hoopes expressed a moment ago. We believe that graduating the major participants in GSP would indeed remove the principal leverage which we have to seek to improve their behavior in the field of intellectual property.

Senator **Chafee**. OK. Fine. Thank you, Mr. Chairman.

Senator **Danforth**. Thank you, Senator Chafee.

Mr. Wang.

## STATEMENT OF FRANCIS S. L. WANG, LEE AND LI, SAN FRANCISCO, CALIF.

Mr. **Wang**. Senator, my name is Francis Wang. I am a partner in the law firm of Lee and Li. Our firm has been involved in combating intellectual property infringements on Taiwan for well over 20 years.

I am here today to speak in support of the amendments to the GSP proposed by the International Anti-Counterfeiting Coalition. I would like to cite an example where a proposed linkage of GSP privileges with effective intellectual property protection has assisted our efforts in obtaining Government cooperation in fighting the counterfeiting problem on Taiwan.

Industries in Taiwan are similar to industries in most advanced developing countries. They have invested in production capacity but have not made the necessary investment in research and development and marketing.

Because of this production capability, industries from these countries—Mexico, Brazil, Hong Kong, South Korea, to name a few others—pose the greatest threat to American intellectual property owners.

These countries will develop, even if we don't want them to—we can't stop it.

What is necessary is to influence the development in a positive manner. In their transition from developing to developed nation status, most of these countries' industries will require access to the American marketplace. The economic planners in these countries understand this fact of life.

Since the industries in these countries pose the greatest threat, continuation and linkage of GSP privileges to positive steps taken by their governments to protect intellectual property is an extremely effective lever in influencing the direction of their development.

In our efforts to have foreign governments acknowledge the problem and work creatively for a solution, I feel we have come the furthest with Taiwan. While the Chinese Government officials always express concern about the counterfeiting problem, the proposed linkage of GSP and intellectual property rights—for which the Coalition has publicly argued—rapidly moved the infringement problem to the top of most senior government officials' agendas. Vincent Siew, the Director General of the Board of Foreign Trade of the Republic of China, in a speech delivered yesterday at the midwinter meeting of the International Anticounterfeiting Coalition stated: "We readily admit that the withdrawal of GSP treatment poses a serious threat to our economy because other countries that do enjoy GSP status will have a competitive edge over us." This demonstrates the importance attached to this linkage. It would, of course, be unfair to say that the only reason that more attention is being paid by the Chinese Government officials to the counterfeiting problem is the potential linkage with GSP. However, this proposed linkage is an important and effective element in bringing this issue to the table and focusing the attention of Taiwan's economic leadership on the problem. This is a lesson that can be effectively applied to other countries. Thank you.

Senator **Danforth**. Thank you, sir. Mr. Foveaux.

[The prepared statement Francis S. L. Wang, Esq., follows:]

Testimony of

Francis S.L. Wang, Esquire

Lee and Li
San Francisco, California

Before the
International Trade Subcommittee
of the
Senate Finance Committee

Hearing on S. 1718 (GSP Renewal)

January 27, 1984

My name is Francis S.L. Wang. I am a partner in the law firm of Lee and Li. Our firm has been involved in the combating of intellectual property infringement on Taiwan for well over 20 years. I am here today to speak in support of the amendments to the Generalized System of Preferences proposed by the International Anticounterfeiting Coalition. I would like to cite an example where the proposed linkage of GSP privileges with effective intellectual property protection has assisted our efforts in obtaining government cooperation in fighting the counterfeiting problem on Taiwan.

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These countries will develop. Even if we wanted to we cannot stop it. What is necessary is to influence that development in a positive manner. In their transition from developing to developed nation status most of these countries' industries will require access to the American market place. The economic planners in these countries understand this fact of life.

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In our efforts to have foreign governments acknowledge the problem and work creatively for a solution, I feel we have come the furthest with Taiwan. While the Taiwanese government officials always expressed concern about the counterfeiting problem, the proposed linkage of GSP and intellectual property rights (for which the Coalition has publicly argued), rapidly moved the infringement problem to the top of most senior government officials agendas.

Vincent C. Siew, the Director General of the Board of Foreign Trade of the Republic of China, in a speech delivered yesterday at the mid-winter meeting of the International Anticounterfeiting Coalition stated "We readily admit that the withdrawal of GSP treatment poses a serious threat to our economy because other countries that do enjoy the GSP status will have a competitive edge over us." This demonstrates the importance attached to this linkage.

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## STATEMENT OF MYRON T. FOVEAUX, DEPUTY TRADE ADVISER, OFFICE OF THE CHEMICAL INDUSTRY TRADE ADVISER

Mr. FOVEAUX. Thank you, Mr. Chairman. My name is Myron Foveaux, and with me in the front seat of the gallery is Mr. Jim O'Connor. And I am the Deputy Trade Adviser for the Office of the Chemical Industry Trade Adviser, which we call OCITA.

Today, I am speaking on behalf of the Chemical Manufacturers Association, and the Synthetic Organic Chemical Manufacturers Association. I want to thank the subcommittee, of course, for affording me this opportunity to present the views of these sectors of the chemical industry on the renewal of the generalized system of preferences.

OCITA believes that the GSP should be renewed because it has provided significant benefits to some of the approximately 140 beneficiary countries and territories. Our industry also believes that the Office of U.S. Trade Representatives has been generally responsive to the concerns which the U.S. industry has expressed during the annual reviews of GSP.

Nevertheless, we believe that additional safeguards are needed so that the program more closely fulfills its intent and its administration is improved.

Specifically, OCITA believes that a renewal of GSP should contain the following provisions:

1. A set of specific guidelines must be devised to permanently remove or graduate articles or entire product sectors from GSP benefits. Currently, this is left to the discretion of the administration.
2. The dollar value limit necessary to trigger temporary suspension of benefits—that is, the competitive need limits—must be lowered. Additionally, an article must be prevented from being reinstated if it exceeds competitive need limits a second time, whether or not in consecutive years.
3. GSP benefits should not be extended to multiple article classifications of the tariff schedules, which are more commonly called baskets.
4. The protection of intellectual property rights must be assured by a beneficiary country in order for it to retain its GSP status. This recommendation is also the position of the National Agricultural Chemicals Association, a member of the coalition of OCITA.
5. The administration should not be given authority to grant GSP benefits to countries no longer in need of them in exchange for other trade concessions.

The basic concept of GSP should remain encouragement of developing countries to industrialize by the granting of preferential access to the U.S. market.

Again, we thank you for the opportunity to present the chemical industry's views on the reauthorization of GSP and written statements by the associations in the OCITA coalition will elaborate on all the points that have been raised here.

Thank you, Mr. Chairman.

Senator DANFORTH. Thank you very much.

[The prepared statement of the Chemical Manufacturers Association, Myron T. Foveaux, follows:]

## WRITTEN STATEMENT OF THE CHEMICAL MANUFACTURERS ASSOCIATION
BY MYRON T. FOVEAUX

On January 27, 1984, Myron T. Foveaux, Deputy Trade Advisor for the Office of the Chemical Industry Trade Advisor, testified before the Subcommittee on behalf of the Chemical Manufacturers Association (CMA) and the Synthetic Organic Chemical Manufacturers Association, Inc., regarding the renewel of the Generalized System of Preferences. In his testimony Mr. Foveaux said that a separate written statement would be sent to the Subcommittee to provide it with greater detail than was contained in his oral statement. This document provides the subcommittee with the written comments of CMA to supplement Mr. Foveaux's statement.

### I. INTRODUCTION

The Generalized System of Preferences grew out of a recognition by industrialized countries of an imbalance in the relative wealth of the countries of the world, many of which had gained independence for the first time in the wake of World War II. This imbalance threatened to worsen unless the industrially developed countries adopted certain programs which would enable their less fortunate neighbors to raise their level of economic activity and enter the world markets with a growing variety of manufactured goods. The proceeds from such accelerated trade could lessen the need for external assistance, raise the developing countries' internal standards of living, and create a better economic balance among developed and developing countries.

It is for this reason that the United States and several other industrialized countries adopted a preferential tariff system *vis-a-vis* imports from designated developing countries. In the United States, this system takes the form of the GSP Program.

It was the intent of this Program from the beginning, however, that economic advantages would *not* be offered to developing countries at the expense of established U.S. industry.[1] In 1980, there was a mid-term assessment of the efficacy of the GSP Program, resulting in a report from the President to the Congress[2] and changes in the administration of the Program. However, these changes have not adequately addressed existing problems.

On July 22, 1983, the Administration sent to Congress a proposal to renew the authority for GSP, which is scheduled to expire on January 3, 1985. This was introduced by Sen. Danforth as S. 1718. The Administration proposal plans for the

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[1] 19 U.S.C. § 2102(4); 15 C.F.R. § 2007.1(a)(5)(viii) and § 2007.2(e); S. REP. 93-1298, 93d Cong., 2d Sess., *reprinted in* [1974] U.S. CODE CONG. & AD. NEWS 7353; and PRESIDENT'S REPORT TO THE CONGRESS ON THE FIRST FIVE YEARS' OPERATION OF THE U.S. GENERALIZED SYSTEM OF PREFERENCES (GSP), 96th Cong., 2d Sess. (W.M.C.P.: 96-58, 1980) [hereinafter *Five Year Report*], at 64.

[2] *Five Year Report*.

President to be guided by the following principles in making GSP eligibility decisions:

1) the development level of individual beneficiaries;

2) the beneficiary country's competitiveness in a particular product;

3) the overall interests of the United States;

4) the effect such action will have on furthering the economic development of developing countries;

5) whether or not the other major developed countries are extending generalized preferential tariff treatment to such product or products;

6) the anticipated impact of such action on United States producers of like or competitive products; and

7) the extent to which the beneficiary country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country.

CMA agrees that these principles are important. We do not believe, however, that the specific proposals offered by S. 1718 address these principles.

CMA believes that the overriding problem with the present GSP Program is that it allows for too much discretion by the Administration in its implementation. Following are examples of areas where this problem arises, which will be discussed in detail herein:

1. No provisions currently remove permanently or graduate articles or entire product sectors from GSP benefits.

2. The dollar value limit necessary to trigger temporary suspension of benefits (that is, the competitive need limits) have become excessive. Additionally, there are no requirements which prevent an article from repeatedly being reinstated only to exceed the competitive need limits every other year.

3. The extension of GSP benefits to multiple article classifications of the Tariff Schedules, more commonly called "baskets," has provided GSP benefits to certain articles which should not receive them.

S. 1718 does not adequately address any of these issues. Instead, this proposal, if enacted, would create even more discretion in GSP decisions and lead to greater deficiencies in the Program.

Following are CMA's recommendations for alleviating the existing problems with the GSP Program and a discussion of the inadequacies of the Administration's proposal in each case. Since CMA represents many companies and product lines, these recommendations, of necessity, address broad issues of generic concern to our member companies. Specific product concerns with the GSP Program are more appropriately addressed by individual companies.

## II. GRADUATION

### A. Problem

The GSP, as administered, does, indeed, provide significant benefits to some of the roughly 140 designated beneficiary countries and territories. Nevertheless, the distribution of these benefits has been highly uneven, with seven of the more advanced developing countries accounting for at least three quarters of all GSP imports.

The unevenly distributed benefits under the Program gave rise to considerable criticism in industry and the Congress. These inequities also caused the Administration, as a result of the *Five Year Report*, to initiate a graduation program designed to remove beneficiaries which have reached a level of economic growth and industrial diversification sufficient to render them competitive in the international trading system.

Since 1981, graduation has become part of the Administration's annual review process. However, CMA believes that the graduation measures have been inadequate and far too slow to bring about the desired redistribution from the more advanced developing countries to the less advanced ones.

The existing GSP statute[3] contains no requirement for permanent graduation of either articles and/or product sectors from a country or of the entire country for all product sectors. Likewise, S. 1718 does not address the issue of graduation at all.

Without specific graduation criteria, such as those we propose below, the U.S. industry is unsure of the appropriate proof necessary to demonstrate to the Administration that graduation of an article, product sector, or country is in order. As a result, industry must provide exhaustive detail which is costly in time and money and, in return, produces data which may be superfluous to the Administration's graduation decisions.

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[3] 19 U.S.C. § 2461, *et seq*.

Likewise, a developing country faces difficulties in planning its marketing strategy for increased industrialization if it cannot be given firm guidelines for graduation from the U.S. GSP Program.

## B. Recommendations

The graduation process should be made subject to specified standards that involve less administrative discretion. Those standards should provide that an article[4] from a GSP beneficiary country would, upon petition by a U.S. company or industry producing such an article, be graduated from GSP treatment when preferential access is no longer needed.

More specifically, the standards should provide that a *prima facie* case of graduation is made in any of the three situations described below, whichever occurs first in a given calendar year. Furthermore, a showing of injury by U.S. industry should not be required under these standards:

a. Graduation on a sectoral basis. Articles in a product sector from a given beneficiary country should be graduated from GSP benefits when, in any one calendar year, imports in that "product sector" (as defined by the two-digit SIC "major group" code) from that country exceed a set percentage of total value of imports of articles in that product sector from all countries, or exceed a set dollar amount (indexed to the U.S. Gross National Product (GNP)); or

b. Graduation on an article/product basis.

(1) A beneficiary country should be removed from the group of eligible countries with respect to an article (as specified by a seven-digit TSUSA number) when, in any one calendar year, it exports to the United States a quantity of that article exceeding a specified amount [5] adjustable to the U.S. GNP; or

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[4] "Articles" (or "products") by the practices of the Office of the U.S. Trade Representative (USTR), have been items, as defined by a five-digit classification number listed in the *Tariff Schedules of the United States (Annotated)* (TSUSA). This five-digit TSUSA item could be either a single unique article or could be a "basket" category (*see* definition in footnote 9) containing numerous items which are similar in nature. For purposes of discussion in this paper, "article" is generally defined to be a single chemical, individually and specifically provided for by a seven-digit TSUSA number or isomers of a single chemical individually and specifically provided for.

[5] This amount should be in excess of the amount specified in Recommendation 2 under competitive need on page 8.

> (2) A beneficiary country should be graduated from GSP benefits with respect to an article when, in any one calendar year, it imports into the United States quantities of the article sufficient to cause the import penetration ratio[6] of that article from that country to increase by five percentage points or more over the import penetration ratio for either of the two preceding years. Moreover, if all GSP beneficiary countries export to the United States during one calendar year a quantity of any article sufficient to cause the import penetration ratio of such article from all GSP beneficiary countries to increase by ten percentage points or more over that import penetration ratio in either of the two preceding years, all GSP beneficiary countries should be graduated from GSP treatment with respect to that article.

These recommendations are made for the following reasons: First, CMA believes that a reduction of the considerable administrative discretion existing in the GSP Program is necessary. GSP procedures are very informal and provide a great deal of discretion to the decision makers. There are no published rationales for decisions, no methods of appeal, and vague, if any, graduation criteria. This makes it very difficult, time consuming, and costly for U.S. companies successfully to pursue a graduation procedure. Establishing specific criteria, such as those we recommend, under which graduation would occur would provide much needed certainty to U.S. industry as to graduation requirements, while at the same time ensuring that the GSP benefits would be granted to the less-developed countries and not to competitive ones.

Second, CMA believes that the three prima facie standards recommended above provide appropriate tests for determining which countries are competitive on a sectoral or an article basis and which should, therefore, be graduated from the GSP Program so that benefits can be channeled to non-competitive beneficiary developing countries.

The two-digit SIC major group code method for graduation on a sectoral basis has already received considerable attention, as it was contained in S. 1150, introduced by Senators Heinz and Moynihan in the 97th Congress on May 8, 1981. As indicated in the statement made by Senator Heinz upon introduction of the bill (127 CONG. REC. S. 4643 (daily ed. May 8, 1981)), the two-digit SIC code is the appropriate method to:

> "eliminate GSP treatment for the advanced sectors of an economy which are internationally competitive, yet retain

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[6] "Import penetration ratio" is defined as the dollar value of imports of an article as a percentage of the value of domestic production of the article.

> GSP eligibility for a nation for other sectors of its economy, thus retaining intact the principle that the benefit of duty-free importation should be concentrated in areas that are not yet able to compete with industrial economies on equal terms."

Examples of two-digit SIC codes are: 01--agricultural crops; 20--food; 24--lumber and wood; 28--chemicals and allied products; and 36--electrical machinery. We believe that such two-digit SIC codes are sufficiently explicit, yet, at the same time, broad enough to define a sector of industry for purposes of reviewing GSP benefits.

The significant changes we recommend concerning graduation on an individual article basis involve graduation decisions made at a seven-digit TSUSA, and not a five-digit, level and the use of specific import penetration ratios as triggering graduation.

CMA believes that graduation on an individual article basis should occur at the seven-digit TSUSA level and not the five-digit level, as is the current practice. The descriptions of many five-digit TSUSA items are so broad that they do not, in actuality, describe a specific product, but rather a range of products [e.g., "other" (TSUSA item 428.12) under the descriptive phrase of "alcohols, monohydric, unsubstituted"]. Therefore, the seven-digit level with its added specificity of designation is more appropriate for graduation decisions on individual articles.

CMA believes that an alternative method for individual article graduation should be the linkage between the continuation of GSP benefits and a percentage of import penetration. It is difficult to arrive at a specific import penetration figure which will always be the appropriate one to consider. However, we believe that the five and ten percent figures we recommend will be generally useful. This is especially true in view of the fact that the International Trade Commission has usually looked for five percent import penetration in injury investigations alleging injury due to high import levels.

It must be stressed that the three suggested graduation standards proposed herein by CMA are alternatives; graduation should occur whenever any one of the three arises. Also, the withdrawal of GSP benefits should, of course, still be available in other situations, upon a showing of import sensitivity (see p.11).

## III. COMPETITIVE NEED

### A. Problem

The so-called "competitive need"[7] limits were included in the Program from its inception due to an awareness that the GSP was not intended to aid imports which encountered essentially no threat from other more developed producing countries. The limits were also intended to deny GSP benefits to any article which entered the U.S. market in such large volume as to indicate by its sheer size alone that the exporting country had reached a stage of industrial development which required no further assistance through GSP.

As to the mandatory exclusion of those imports that have, within one year, exceeded the indexed upper value limit, CMA strongly believes that this upper limit has risen to an excessive level. Furthermore, it seems inappropriate to apply one uniform upper value limit to all product sectors (as defined by the two-digit SIC code).

S. 1718 proposes that the competitive need limits be revised into two tiers. The vast majority of beneficiary developing nations would remain under the current system, as described in footnote 7. The lower tier countries would be those which the President has determined to be capable of "producing highly competitive articles." These would be subject to a 25 percent/$25 million rule.

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[7] The GSP statute stipulates that the competitive need limit on any imported item is exceeded when either of two conditions occur during a calendar year. The first condition is met any time the dollar amount of any given five-digit TSUSA item exceeds a value which bears the same relation to $25 million as the GNP of the United States for the preceding calendar year bears to the GNP of the United States for the calendar year 1974. The second, and more commonly used, condition is met when any one country accounts for more than 50 percent of the dollar value of the imports of any given five-digit TSUSA item. If either condition occurs, GSP benefits are suspended on all imports from the given country for the specific five-digit TSUSA item for the following calendar year. During the one-year suspension, if the competitive need limit is not exceeded, GSP benefits can be reinstated. Permanent graduation occurs only at the discretion of the USTR. While some items have been graduated since 1981, the vast majority continue to be reinstated. As stated herein, CMA favors the removal of discretionary authority toward graduation.

CMA is of the opinion that a two-tiered system of competitive need limits is not only unnecessary, but undesirable because it will add undue complexity to the system. The additional level of Administration discretion coupled with unclear "graduation" criteria will force industry to operate in an atmosphere of even greater uncertainty than it now does.

## B. Recommendations

1. The competitive need provisions should be applied on the basis of seven-digit TSUSA items, so that when, in any one year, imports of a seven-digit item from a country exceed a set amount (indexed to the U.S. GNP) or exceed 50 percent of all imports of that seven-digit item, GSP benefits would be suspended with regard to imports of that article from that country. As stated previously, the seven-digit TSUSA level, and not the five-digit one, provides the necessary specificity of description to make decisions as to whether GSP benefits should be suspended from individual articles.

2. In addition, the current dollar amount applicable under the "cap" included in the GSP competitive need provisions[8] is too high. In 1974 dollars, this cap was equivalent to $25 million. For 1983, it was equal to $53.65 million. This figure should be revised downward to reflect the change from five-digit TSUSA to seven-digit analysis. The $1 million *de minimis* exemption, which is indexed to GNP as well,[9] should also be reduced accordingly.

3. Finally, the reinstatement procedures applicable after suspension under the competitive need limitations should be modified so that a country can be reinstated to GSP treatment only at an intermediate tariff level (for example, one-half of most-favored nation (MFN) rate). If a country does exceed the limitation for a second year (consecutively or not), it should permanently be graduated from GSP treatment with respect to that article. Such a procedure would avoid the practice of countries fluctuating in and out of the GSP Program, when they are actually competitive in the articles in question. Once a country has reached the competitive need limits in an article for two years, it is obviously internationally competitive in that article and should no longer be able to receive GSP benefits for it.

All of the above criteria for activating the competitive need provisions should not be in lieu of, but should rather be in addition to, applicable graduation provisions. The graduation criteria would, of course, supersede the competitive need limits.

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[8] 19 U.S.C. § 2464(c)(1)(A).

[9] 19 U.S.C. § 2462(d).

## IV. BASKET CATEGORIES

### A. Problem

The present competitive need limits frequently fail to function properly. The major reason for this failure is the existence within the *Tariff Schedules* of "basket"[10] categories, which usually contain a large number of different articles. Many of these articles account for a significant amount of trade and would, if separately classified, probably trigger the 50 percent competitive need limit, thereby removing the article from the list of GSP eligible items for at least one year.

Because no mechanism exists easily to remove articles from basket categories, the competitive need limits are effectively bypassed. Moreover, it is difficult for domestic industry to petition for graduation of an article in a basket because of the lack of data on imports of individual articles entered in basket or multiple product categories.

The problem of basket categories in the administration of the GSP Program has previously been raised with the Trade Policy Staff Committee by the Industry Sector Advisory Committee on Chemicals and Allied Products (ISAC #3). In a letter dated November 12, 1981, ISAC #3 stated that:

> [It] "would like to go on record as a matter of principle concerning specific requests from developing countries for GSP treatment on products which are included in a TSUS basket containing dozens (and sometimes hundreds) of other products. ISAC #3 strongly urges that such specific product requests be broken out of the basket and assigned a separate TSUS numerical designation. Stated another way, the ISAC opposes according GSP treatment to an entire basket category simply because GSP treatment has been requested for one product in the basket. In the opinion of the ISAC, extending GSP treatment to the entire basket category contravenes the spirit of the GSP system as well as causing

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10/ "Basket" categories are those classifications within the TSUSA in which multiple items which have similar chemical characteristics are listed and for which, supposedly, there is insufficient trade to warrant being specifically provided for. An example of basket categories exists for a class of organic compounds called ketones. The TSUSA provides specifically for four ketones: acetone (#427.6000), ethyl methyl ketone (#427.6200), isopherone (#427.6410) and methyl isobutyl ketone (#427.6420). All other ketones are classified in the "basket" of TSUSA #427.6430.

> potential (and inadvertent) hardship to manufacturers of the other products contained within the basket."

This problem is of particular importance to the chemical industry because of the significant number of basket categories in Schedule 4 of the Tariff Schedules.

S. 1718 does not address the issue of unintended benefits being granted to articles contained in basket categories and, therefore, does nothing to lessen the impact on U.S. producers of articles which are entering duty-free because GSP benefits have been granted to baskets which contain multiple articles.

### B. Recommendation

A method for "breaking" or "lining" out individual articles from baskets should be included in renewal legislation. Upon the request of a representative of an interested domestic industry, the Administration should be required to "break out" articles from a basket or multiple product category and provide a separate seven-digit TSUSA numerical designation to any such article in that basket category. Such "break outs" would permit an assessment of whether GSP benefits should be withdrawn from any of these articles.

## V. TIMELINESS OF RESPONSE TO INTERESTS AND CONCERNS OF U.S. INDUSTRY

### A. Problem

There is a need for greater and more timely responsiveness to the interests of domestic producers. The USTR currently accepts petitions once a year for extension or withdrawal of GSP benefits. Petitions are accepted for review in June, and actions on these petitions are taken the following March.

While this time frame may be adequate in many cases, it does not address those instances in which a U.S. industry may be suffering immediate injury from imports receiving GSP benefits. A procedure should be established to process petitions in such cases in a more expeditious manner.

Second, although the GSP Program was designed to ensure that granting of GSP duty-free status to articles would have no adverse effect on U.S. producers of competitive items, there are, at present, no sufficiently explicit criteria to safeguard the interests of U.S. producers.

S. 1718 fails to address this issue as well.

## B. Recommendations

1. The GSP procedures should provide for emergency-basis consideration by the USTR of petitions to suspend or eliminate GSP benefits. In this regard, a provision should be included in the GSP rules under which a petition by a representative of a domestic industry seeking to have GSP treatment withdrawn from an article will be given immediate "fast-track" consideration by the USTR upon a showing that conditions exist which warrant such treatment. Such "fast-track" procedures may, for example, be needed for certain requests to "break out" articles from basket categories.

2. The Administration should be obliged to judge import sensitivity by specific criteria. Administrative discretion should be reduced in the review procedure. Instead, the Administration should have clearly-defined, specified criteria which will be followed (e.g., an increase in the import penetration ratio measured by the relationship of imports to domestic production, the decline of employment in the United States, and other equally relevant criteria).

## RELATED ISSUES

## VI. UNFAIR TRADE PRACTICES

## A. Problem

There is growing concern within the U.S. chemical industry that duty-free access to the U.S. market benefits countries which do not adhere to the internationally recognized trading rules set forth by the General Agreement on Tariffs and Trade (GATT). For example, the list of GSP beneficiary developing countries includes several countries which have not accepted all parts of the 1979 Multilateral Trade Negotiation (MTN) Package, several which are imposing "performance requirements" in violation of the GATT, and several non-market economies. Also, some of the countries receiving GSP benefits do not provide protection for industrial or intellectual property rights.

## B. Recommendations

Any GSP beneficiary developing country which violates internationally recognized intellectual or industrial property rights, commits fraud (or sanctions fraud by its resident companies) in the conduct of its trade relations with the United States, or trades in counterfeit goods (or sanctions such trade by its resident companies) should be denied GSP benefits for all articles it imports into the United States.

## VII. RECIPROCITY

## A. Problem

The Administration has proposed to waive competitive need limits for any country "when it is in the economic interest of the United States" to do so. Such determination "will give great weight to the extent to which the country has assured the United States that it will provide equitable and reasonable access to the markets of such country." (By implication, this would also allow the President to fail to graduate a country no longer in need of preferential treatment but which promises other trade concessions to the United States.)

B. Recommendation

CMA believes that the Administration should not be given authority to negotiate reciprocity agreements pursuant to which the United States would refrain from graduating a country found no longer to need preferential access to the U.S. market in exchange for certain other concessions. The basic concept of GSP should remain encouragement of developing countries to industrialize by the granting of preferential access to the U.S. market. If such preferential access were granted to countries not in need of it, the underlying rationale of the GSP Program, and of the GATT Most Favored Nation rule, would be violated.

Senator DANFORTH. This is, I think, a very important issue and one that has to be adequately addressed in any GSP legislation. We tried to get at it in the reciprocity bill. What gives the United States its edge and has historically is our creativity, our ability to develop new products, and if this can be pirated, it really is a blow at us right where it hurts the most.

I know that last year my legislative assistant, Sue Schwab, was in Taiwan, and she bought a Rolex watch for $30. She brought it into the office, and it looked just like a Rolex watch. It had the same little crown emblem on the face and on the stem, and exactly the same appearance. It was a quartz watch as opposed to a jeweled watch, and it was lighter when you held it, but it had just exactly the same appearance.

And I know that Monsanto has been particularly hurt by pirating of its products.

Let me just ask you this—and I am just thinking—but give me your frank view of it. It seems to me that we in Congress—we in the Government—take action when something is very dramatically put before us. The oral presentation that you made is very impressive, but I think one of the most impressive things that happened was when Mr. Gortikov produced his tapes. There is something about the show and tell of pirating that is very, very effective. What I am wondering is: Could we put on a hearing or short of a hearing, some sort of display at some point, maybe it would be at a reception—so that other Senators could be invited to come in and look, and so that the press could be invited to come in and look, and so, the public would be informed as well as the Senate.

I wonder if it would be possible to get a room here in the Senate and set up a fairly extensive display in which seemingly identical products were put side by side. For example, if a Willie Nelson tape that was the real Willie Nelson was put side by side with the counterfeit tape, or if an American-made auto part were put side by side with a fake auto part, or the Rolex watch—I guess the Rolex watch is not the best because the original isn't made here—but if we could make that kind of case in a very, very graphic way, would that be possible? Would it be helpful?

Mr. **Enyart**. Senator, we have a selection of goods exactly as you described, and we would be delighted to bring them up, and I would urge our friends from other associations to join us.

Senator **Danforth**. Could somebody spearhead that?

Mr. **Walker**. Yes. In fact, Mr. Chairman, the coalition proposed to the staff that we have a little dog and pony show here, but unfortunately, 2 minutes is a little short for a good show.

Senator **Danforth**. In setting it up, maybe we could get the caucus room or this room or some place and set it up and then invite all the Senators to come. You all could do that. If your groups would extend an invitation to attend a reception, all Senators know what that is about. [Laughter.]

And set it up some time, and people could come in and see the situation, and invite the press in. Maybe you could have a little press conference, or something. I don't know. But it just seems to me that the graphic nature of it puts it across so much more clearly than any words do.

Mr. **Hoopes**. We have collected a wide range of pirated books, Mr. Chairman, and we would be pleased to cooperate fully with this effort. We would like very much to do it.

Senator **Danforth**. All right.

Mr. **Walker**. One of the points, I think, Senator, that is important is to underscore that there are serious health and safety concerns that are a part of this as well.

We are dealing with things such as counterfeit auto parts, airplane parts, pharmaceuticals and drugs, and we have a wide range of examples of products of this kind that have been used and misused by counterfeiters.

Senator **Danforth**. Did you want to say something?

Mr. **Gortikov**. Only to add my support for your suggestion, and we would be happy to participate.

Senator **Danforth**. Somebody would have to put it all together, and it would have to be cleverly done. I don't know anything about putting together displays, but, for example, if there are airplane parts that look the same, and one of them has a safety problem, somehow that would have to be explained on a little card or something. I don't know.

Mr. **Walker**. We have such a display, in fact, at Orlando right now which we were going to bring up, but which we obviously did not. That is not a problem, Senator.

Senator **Danforth**. OK. Bill, why don't you put it together, or am I volunteering you?

Mr. **Walker**. No, that is fine. We will work with your staff and see if we can't do that.

Senator **Danforth**. Good. Thank you all very much.

Mr. **Hoopes**. Thank you, Mr. Chairman.

Senator **Danforth**. This hearing is adjourned.

[Whereupon, at 11:50 a.m., the hearing was concluded.]

[The following communications were submitted for the record:]

United States Department of State

*Washington, D.C. 20520*

JAN 16 1984

Dear Mr. Chairman:

Senate Bill 1718 to amend the Trade act of 1974 to renew the authority for the Generalized System of Preferences (GSP) is a bill of great consequence for U.S. foreign economic policy. GSP has become important in our trade relations not only with the 140 beneficiary developing countries but also with the other 19 donor developed countries. Our friends in the developing world regard GSP as tangible evidence of the U.S. commitment to support them in their economic development efforts. The OECD countries look upon our participation in GSP as an important element in developed country assistance to LDCs.

GSP serves a number of important global economic objectives. These purposes are well stated in Section One of S. 1718. The Administration's proposed legislation to renew our authority to operate a GSP program is in the national interest in the political as well as the economic arenas. We therefore strongly urge favorable Congressional approval of the GSP renewal package that the Administration has submitted.

From one perspective, the exemption which GSP provides from customs duties is a concessionary or aid strategy. This is indeed important to many developing countries, particularly the poorest of them. Others, whose economies are geared to free enterprise and responsive to market opportunities, find that the competitive assist provided by the temporary exemption from duties allows them to diversify their production, to increase employment, and to earn additional foreign exchange. The importance of diversification in avoiding heightened pressures on our most import-sensitive industries (whose products are not GSP-eligible) should not be overlooked, nor should the importance of GSP earnings in allowing developing countries to service their foreign debt, which often involves U.S. commercial banks.

The Honorable
Robert J. Dole, Chairman,
Committee on Finance,
United States Senate

In addition one should not fail to consider the direct economic benefits to the U.S. in an economically interdependent world. The markets of the GSP beneficiary developing countries represent the fastest-growing export markets in the world for American manufacturers and agricultural producers. The foreign exchange earned in developing countries from GSP exports in effect flows back to America, creating much-needed employment and production here at home.

Experience with the GSP program since it implementation in 1976 has suggested areas for changes and improvements now that legislative renewal is approaching. These changes are incorporated in S. 1718.

The countries whose economic policies are market-oriented have been most successful in the export of GSP-eligible products. While this should be regarded as a tribute to free enterprise rather than as a shortcoming of GSP, there is a general desire to see the less-advanced countries enjoy a greater share of the benefits of GSP.

To reduce the competitive edge of the more successful exporters, a product-specific approach to removal of GSP benefits was implemented in 1980 after the Congressional review of the President's report on the first five years' operation of GSP. We believe this to be the most effective and equitable approach to the redistribution of benefits. It takes into account that different industries develop at different speeds in different countries; once a product from a given beneficiary is judged by the President to be competitive, it comes off GSP for that country, becoming subject to the MFN rate of duty in force for non-GSP countries (i.e., developed countries). In making these decisions, the President takes into account three factors: (1) the overall level of development of the beneficiary developing country; (2) the country's competitiveness in the particular product of concern; and (3) the overall economic interests of the United States, including the import sensitivity of the relevant domestic industry or producer. We have retained this product-specific approach in our proposed renewal legislation, having concluded that sectoral or complete country removal from the GSP program would be inequitable and would offer few if any advantages. The product-specific approach combined with automatic competitive need limits and built-in safeguard procedures protects U.S. domestic interests from excessive GSP imports while encouraging continued diversification into industries with less export volume.

S. 1718 supports a further redistribution of GSP benefits in two ways. It proposes to eliminate competitive need limits for the least developed countries (LLDCs), the poorest beneficiaries. This will allow these countries to enjoy GSP without concern for possible loss of benefits during the renewal period of ten years. This provision for the LLDCs is of greater importance in eliminating uncertainty than in its direct economic benefit, as the LLDCs have yet to reach the levels of production and export where even the current competitive need limits affect them. Nevertheless, similar liberalizing moves by the Canadians and other donor countries have been well-received.

S. 1718 also proposes to apply lower competitive need limits to some products from competitive suppliers. To allow for an orderly transition, a grace period will be provided. The beneficiary developing countries will be alerted that some of their products may be found "highly competitive", and that they should consider very seriously the means to integrate their economies more fully into the open world trading system.

This brings us to another area of major concern, protectionism in beneficiary country markets. Significant tariff and nontariff barriers exist in many developing country markets. We wish to encourage the GSP beneficiary developing countries to liberalize their trade regimes, which will expand export opportunities for U.S. industry and agriculture. Therefore, S. 1718 proposes to give heavy weight to the market access conditions for U.S. exporters in a beneficiary country's markets when the U.S. decides whether to lower the competitive need limits for that country's most competitive exports to the United States. That is, the more open and unrestricted economies will be rewarded for their decisions by being granted higher competitive need limits under GSP than will be granted to the more protectionist GSP beneficiaries.

For the reasons discussed above, we strongly believe the proposed GSP renewal legislation should be enacted quickly. It truly represents the best package to achieve America's national interests in both the domestic and foreign affairs contexts.

The Office of Management and Budget advises that there is no objection to the submission of this report, and that enactment of S. 1718 would be in accord with the program of the President.

Sincerely,

W. Tapley Bennett Jr.

W. Tapley Bennett, Jr.
Assistant Secretary
Legislative and Intergovernmental Affairs

BEFORE THE

INTERNATIONAL TRADE SUBCOMMITTEE
FINANCE COMMITTEE

U.S. SENATE

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S.1718

RENEWAL OF AUTHORITY
FOR OPERATION OF
THE GENERALIZED SYSTEM OF PREFERENCES

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# STATEMENT
# OF
# DIA-COMPE, INC.

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This statement is submitted on behalf of Dia-Compe, Inc., a small, North Carolina company engaged solely in the business of producing and marketing bicycle caliper brakes. Dia-Compe is a member of the Bicycle Manufacturers Association of America, Inc. ("BMA") due to its being a supplier of a bicycle component to the domestic bicycle manufacturers. The BMA has submitted a comprehensive statement on this legislation, and Dia-Compe largely concurs in the points made therein. However, that submission does not address some of the unique and vital needs of Dia-Compe. This statement offers the position of Dia-Compe in the context of the Generalized System of Preferences ("GSP").

## Introduction

Dia-Compe, a domestic company, constitutes the entire United States bicycle caliper brake manufacturing industry. Dia-Compe imports a major portion of the parts and materials used in its production of caliper brakes from Japan. All of this company's competition comes from fully assembled brakes imported from abroad, including Taiwan. Taiwan is, by far, the major GSP competitive country of origin.*/

At the present time, bicycle caliper brakes enter this country duty-free regardless of their origin because of legislation which suspended the duty on caliper brakes and other specified bicycle components. That duty suspension puts Dia-Compe to a somewhat competitive disadvantage because it still must pay duty on some of the parts it imports for incorporation into its brakes, while its competitors export fully assembled brakes and pay no duty at all. Nevertheless, Dia-Compe strongly supports that legislation because it covers a substantial portion of its imported parts and because the duty-free environment is of great benefit to Dia-Compe's customers. The growth and well-being of the American bikemakers directly impacts Dia-Compe as a supplier to that industry. If they don't sell bikes, we don't sell brakes.

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*/ While other GSP beneficiary countries produce and export bicycle caliper brakes to the U.S. market, Taiwan is by far the largest exporter and, standing alone, poses a grave threat to the domestic industry. Hence, this submission is directed toward the problem as it relates to Taiwan.

Dia-Compe has grown over the years because it offers a quality product and because, being located in America, can offer its domestic customers unmatched service. While it cannot match the deflated prices available from competitors in some countries such as Taiwan, the differential has been "manageable" in that the U.S. bikemakers were willing to pay somewhat of a difference as a premium for Dia-Compe's high quality and its more responsive level of service.

The ability and willingness of U.S. bikemakers to pay a "premium" is, however, limited. It is, in large measure, directly proportional to the price competition of foreign bicycles and therefore, Dia-Compe, while only a maker of caliper brakes, is a victim of the rise in imports of complete bicycles. Commensurate with the creation and opening of Dia-Compe in 1975, the bicycle industry itself was facing and continues to face a grave threat from ever-increasing foreign imports of complete bicycles. The threat was so ominous that the bicycle industry petitioned for and obtained relief in the concluded and implemented Tokyo Round of GATT negotiations. Competition in the bicycle industry is intense and cannot be overstated. Particularly now, with imports innundating this market and with the American consumer faced with the ravages of both inflation and recession, cost factors in bicycle production are critical.

Dia-Compe is surviving this debilitating environment but it cannot continue to survive if there is an expansion of the competitive price advantages already enjoyed by foreign producers. Yet, unless changes are made in the GSP, the competitive advantages enjoyed by low-cost producers from Taiwan will increase virtually overnight thereby destroying Dia-Compe and with it, the U.S. caliper brake industry.

Now, under duty-suspension, Dia-Compe can survive, despite some competitive disadvantage, because all brakes and most of the parts imported by Dia-Compe enter duty-free. By and large no one has a significant competitive advantage as a function of differences in duty rates. However, at the expiration of duty-suspension on bicycle caliper brakes, Dia-Compe will pay full duty on all that it imports while its pervasive low-cost competitors from Taiwan will be able to continue duty free imports into the U.S. because of the GSP.

Legislation which renews the operation of the GSP must consider the issue of retention of Taiwan, which has become a very successful and aggressive trader in the last decade, and of adding bicycle caliper brakes to the list of non-eligible products. To do otherwise not only perpetutates the fiction of Taiwan as a developing country in need of a trading "handicap", but could result in the destruction of a number of U.S. industries and companies, including Dia-Compe. The destruction of Dia-Compe alone will put over 100 persons out of work in this rural North Carolina area and deprive over 100 families of a means of support. There are few, if any, alternative employment opportunities in and around Fletcher, North Carolina and your committee, in its consideration of this legislation, must be mindful of that fact.

## Position of Dia-Compe

In view of the foregoing, and assuming the renewal of the GSP program in some form, Dia-Compe urges that: (1) section 502(b) of the Trade Act of 1974, 19 U.S.C. §2462(b), be amended to include Taiwan; (2) section 503(c) be amended to specifically include bicycle caliper brakes; and (3) section 504(c)(1) be stricken and replaced with a standard similar to that contained in the present section 501(3) thereby eliminating treatment as a beneficiary country with respect to a particular article if that country's exports of the article threaten the competitive posture of the U.S. producers.

## Discussion

The present GSP structure almost totally fails to respond to the needs of small American industries producing low-priced items which are threatened by the onslaught of foreign competition. The machinery for petitioning for the removal of eligibility for a country and/or a product is an annual opportunity of long duration, requiring a staying-power which is often beyond the limits of the stamina of a domestic industry under attack from abroad. Among the most tencious low-cost traders in the world are certain countries which could perhaps have fairly been considered industrially underdeveloped at one time but cannot reasonably be so considered today. The coming expiration of the GSP provides a perfect and timely opportunity to address this terrible unfairness which haunts many a domestic industry. Now, this Congress can give recognition to the fact that certain trading partners can and should graduate to a more equal and realistic trading status. It is one thing for traditional American generosity to have given those countries a favored status to facilitate their development, but it is quite another for those countries to be given unlimited favoritism to the great detriment of our own industries when they no longer are adolescent in the area of world trade. Dia-Compe has specific reference to Taiwan. As to caliper brakes, Taiwanese companies now are responsible for over 2.5 million of the brakes sold in this country. If they were to derive the duty-free benefits of GSP while Dia-Compe would pay duty upon expiration of the duty-suspension provision, they would expand even further. Dia-Compe certainly could not survive.

Even under duty-suspension whereby every country enjoys duty-free status on caliper brakes, the Taiwan capacity, facilities, and exports have grown exponentially. In fact its exports of caliper brakes to the U.S. grew by over 345 percent from 1978 to 1983. During that period Taiwan's portion of total imports has expanded by 300 percent revealing a pervasive expansion pattern. This exponential growth will continue under any circumstances but, should it be fostered by allowing Taiwan to benefit from duty immunity while Dia-Compe is compelled to pay duty, Taiwan will have been granted the additional competitive advantage which would spell the end of Dia-Compe and with it, the end of the caliper brake industry in this country.

The erosion of Dia-Compe's business has already begun in that, with a serious softening of the U.S. bicycle market and the continued onslaught of foreign imports, U.S. bikemakers are looking for any viable way to reduce their costs. One way is to increase the use of the cheaper caliper brake made in Taiwan. All but one of Dia-Compe's major customers have recently placed orders in Taiwan either for the first time or for larger amounts than ever before.

Dia-Compe cannot wait for the expiration of duty suspension to seek changes in the GSP. Even assuming that Dia-Compe would ultimately succeed in having the eligibility of bicycle caliper brakes from Taiwan eliminated, the company could not survive the tariff disparity during the lengthy period of administrative procedures. Taiwan must be specifically listed as ineligible for designation as beneficiary of the GSP. To do anything less would violate the stated purpose of this bill, for, as stated in sections 1(b)1, 1(b)8, and 1(b)10(A) respectively, the legislation is designed to promote the development of developing countries temporarily until they can compete effectively; to integrate those countries into the international trading system; and to prevent adverse effect on U.S. producers and workers.

Taiwan has had a lengthy opportunity to develop industrially, an opportunity which it has taken full advantage of. It must not now be given virtually permanent GSP status. It has, to its credit, become fully integrated into the international trading system, and in fact is a leader and innovator in that system. Certainly, as to bicycle caliper brakes, continuation of Taiwan as a GSP beneficiary will dramatically and terminally effect the U.S. producer and all of its workers. Section 502(b) of the Trade Act of 1974 should be amended to include Taiwan as ineligible for inclusion within the GSP.

The particular crisis of the bicycle caliper brake industry can be addressed in an alternative way, by including bicycle caliper brakes in the list of products specified in section 503(c)(1) of the Trade Act as import-sensitive and thus not eligible to be designated for GSP treatment. This approach will recognize the drastic effect of GSP treatment on the U.S. producer of the same product as reflected in section 501(3) of the Act, as well as the drastic extent of the beneficiary developing countrys' competitiveness with respect to these brakes, a standard set forth in proposed section 501(4).

Finally, Dia-Compe urges that the standard of monetary value for "automatic" cancellation of eligibility set forth in section 504(c)(1)(A) be eliminated and a new standard be inserted which is consistent with the section 501 standards for initial eligibility. The existing monetary standard is totally unrealistic when measured against the needs of a small industry and/or an industry which produces low priced items. The standards for removal of a country and article from GSP eligibility is often the only lifeline for a berated U.S. industry. Those standards must be realistically attainable and reasonably related to all affected industries. A low price product, such as bicycle caliper brakes, cannot conceivably find relief under the standard set up in 504(c)(1)(A), now amounting to over $50 million. It is a standard totally unrelated to the reality of the product or the industry. Dia-Compe would long be destroyed if relief for it depended, as it may well, on it waiting until one country, such as Taiwan, annually brings in 30-50 million caliper brakes for a bicycle manufacturing industry which annually produces perhaps 5-8 million bicycles.

No arbitrary monetary standard can respond to the needs of any but the larger industries. Dia-Compe therefore suggests a standard for removal of eligibility similar to that for initial eligibility contained in 501(3).

## Conclusion

Dia-Compe is and always has been willing to compete on an equal tariff footing with the members of the international trading system. It also fully understands the need to assist less developed nations in becoming full participants in the world's economy and to provide livelihoods for their people. However, no public or even international purpose is served by giving further benefit to Taiwan at the expense of this domestic company and its work force. Taiwan is a fierce competitor which even now is rapidly expanding its U.S. market. Taiwan's substantial cost advantages allow its industries to be very strong competitors. No immunity from duty is required to permit Taiwan to develop a viable caliper brake industry. It reached that status some time ago.

When a country has become fully integrated into the world system, it is inappropriate, unnecessary, and grossly unfair to continue to give it competitive advantages, particularly, as here, when those advantages spell doom for an American industry.

For the foregoing reasons Dia-Compe respectfully requests that continuation of the GSP program be made subject to:

(1) removal of the eligibility of Taiwan as a beneficiary country; (2) inclusion of bicycle caliper brakes as a product not eligible for designation as an article to be given GSP treatment; and (3) imposition of a competition standard in lieu of the monetary standard for "automatic" removal of eligibility.

Respectfully submitted,

Ronald K. Kolins
Attorney for Dia-Compe, Inc.

Of Counsel:

ROSS & HARDIES
One IBM Plaza
Suite 3100
Chicago, Illinois 60611
(312) 467-9300

CONTINENTAL GRAIN COMPANY
277 PARK AVENUE
NEW YORK, N. Y. 10172

January 26, 1984

Hon. John C. Danforth, Chairman
International Trade Subcommittee
Committee on Finance
SD-219 Dirkson Office Building
Washington, D.C. 20510

Dear Senator Danforth:

Continental Grain Company wishes to place on record before your International Trade Subcommittee the enclosed statement in support of renewal of the U.S. Generalized System of Preferences.

Sincerely,

Bernard Steinweg

Bernard Steinweg
Senior Vice President
Public Affairs

BS:lml
Enclosure

# WRITTEN STATEMENT OF
# CONTINENTAL GRAIN COMPANY
# TO THE
# INTERNATIONAL TRADE SUBCOMMITTEE
# SENATE COMMITTEE ON FINANCE
# IN SUPPORT OF RENEWAL OF THE UNITED STATES
# GENERALIZED SYSTEM OF PREFERENCES

JANUARY 26, 1984

Continental Grain Company is a major exporter of U.S. grains, oilseeds and products from the Great Lakes, Pacific, Gulf and Atlantic Coasts to all markets in the world. Continental employs nearly 3,000 United States workers in its grain handling operations, including oilseeds and products.

The Generalized System of Preferences (GSP) has been an important part of United States trade policy of allowing developing countries to increase their exports to the United States market, and has earned them dollars needed to purchase grain, oilseeds and other farm products from the United States. Developing country markets have been increasingly important for American farm exports since they have taken up to one third of our total exports of agricultural products in the last two years.

Israel, for example, is one country that has gained benefits from GSP. In 1981, Israel sold $339 million worth of GSP products to the U.S. In that same year, Israel purchased $324 million worth of agricultural products from the U.S., of which $180 million was grain. This is just for agricultural products. Total U.S. exports to Israel well exceed $2 billion a year.

In short, GSP does not really appear to be injuring the U.S. economy or exporting jobs abroad overall. Trade is a two-way street. Only 3 percent of all imports into the U.S. are under GSP. To again use Israel as an example, imports under GSP from Israel are only about 0.1 percent of all imports into the U.S. If any jobs are lost to GSP countries -- and it is doubtful that there are jobs lost on any significant basis -- such job losses are more than offset by jobs gained from exporting more to developing countries than otherwise would be the case.

Developing countries should not be "graduated" out of GSP status unless they have truly progressed out of developing country status. To do otherwise would be simply to condemn developing countries to a longer, more protracted period of development, if not to halt or reverse development all together. Criteria used to measure any country's development status should be as broad in scope as possible, and not simply the extent to which the country has used GSP coverage on its overall exports to the U.S. On the contrary, it can be argued that a developing country that qualifies and uses GSP for large proportion of its total exports to the U.S. shows a substantial need for GSP in its development process.

In addition to the general economic measurements of development that are used to classify countries as developed or still developing, such as per-capita gross domestic product, the U.S. should also consider the following:

(A) The balance of trade and balance of payments of the country. Does it have a deficit? Does it have a deficit with the U.S.?

(B) The needs of the country for foreign exchange. Does it have a large debt? Is it required to purchase large amounts of goods from the U.S.?

(C) The defense needs of the country. Is it required to be in a constant state of preparedness?

(D) Its lack of natural resources. Does it lack petroleum reserves, a good climate, etc.?

(E) Its political, strategic and diplomatic importance to the U.S. Is it a major ally?

In conclusion, we wish to express our continued support of the Generalized System of Preferences in tariff treatment of developing countries by the U.S., as well as by our major industrialized trading partners. GSP should be renewed and there appear to be few, if any, countries presently benefitting from GSP that should be denied GSP treatment in the renewal period ahead. GSP not only benefits developing country economies, but in so doing it also benefits U.S. exports, and not least U.S. agricultural exports.

# Testimony of

Donald W. Peterson

Associate General Patent Counsel
Monsanto Company

and

Vice-President
International Anticounterfeiting Coalition

Before the Trade Subcommittee

of the

Committee on Finance

United States Senate

on

# RENEWAL OF THE GENERALIZED SYSTEM OF PREFERENCES

January 27, 1984

# INTRODUCTION

The international Anticounterfeiting Coalition ("Coalition") is a world-wide organization with a membership of over 100 major corporations of international reputation. The Coalition was formed in 1978 to stimulate stronger government measures to combat domestic and international product counterfeiting. Since then, the interests of our group have expanded to include a concern for the enforcement and the preservation of all forms of intellectual property rights, including registered patents, copyrights, trademarks and trade secrets. I am here today to explain that while the Coalition can support a renewal of GSP per se, we can do so only if the Congress in such renewal will condition a country's eligibility to receive GSP benefits on a showing that such country provides effective protection for intellectual property rights. GSP benefits are important; and we, therefore, believe that the existence of such a requirement would provide a most effective incentive for certain "problem countries" to cooperate with the United States in eliminating intellectual property abuses.

## THE NATURE OF THE PROBLEM

Commercial counterfeiting, i.e., purposely affixing a false trademark to a product, which then appears superficially indistinguishable from its legitimate counterpart so that consumers are duped into purchasing the counterfeit under the mistaken belief that it is the genuine article, is a familiar form of the problem.

The problem also manifests itself in a lack of adequate protection for U. S. intellectual property rights in LDCs resulting from such things as: broad areas of invention not subject to patent coverage, such as chemical products or pharmaceuticals; patents of narrow scope which can be easily circumvented; compulsory licensing and forfeiture provisions for patents; extremely short patent life; unreasonable limits on use of U.S. trademarks; free benefits of U.S.-developed registration data to LDC manufacturers; and general lack of effective copyright protection. In addition to the problems in obtaining local recognition of these rights, there are a wide range of problems in enforcing locally the rights which can be obtained. These include: protracted delay in proceedings with no interim relief available to the U.S. company whose rights are being infringed; practically impossible burdens of proof; inability to gain access to infringer's records to obtain evidence of infringement or prove damages; and extremely low penalties which do not deter infringement.

## EXISTING SANCTIONS ARE INADEQUATE

Commercial counterfeiting is an extremely lucrative and relatively low-risk form of illegal conduct. Thus far, few measures have been undertaken to curtail commercial counterfeiting, and those have proven wholly inadequate because the illicit trade is so mammoth.

The Coalition was primarily responsible for amendments to section 526 of the Tariff Act of 1930 (19 U.S.C. 1526) which were passed by Congress in 1978. Those amendments strengthened the sanctions against imported counterfeit merchandise by providing for the seizure and forfeiture of the offending articles. Other legislative efforts are being supported by the Coalition that would help to bring counterfeiting under control in this country. Nevertheless, the most effective relief from counterfeiting and other forms of intellectual property violations will only result from attacking the problem at its source: in the developing countries that account for the vast majority of such exports.

There are international agreements that purport to offer a solution to the problem of international trafficking in counterfeits. The Paris Convention for the Protection of Industrial Property, established in 1883 and subscribed to by 81 nations including the United States, declares commercial counterfeiting unlawful; but as a practical matter, the Paris

Convention requires only that signatory nations offer the same trademark protection to the nationals of other adhering nations as they provide to their own citizens. Therefore, protection under the Paris Convention is only as effective as the individual national laws.

Another international agreement, the Madrid Agreement Concerning the International Registration of Trademarks, offers its 23 signatory countries centralized registration of trademarks. Neither the Madrid Agreement nor the Paris Convention, however, provides a mechanism for detecting and/or prosecuting counterfeit trademark violations, and thus neither has had any deterrent effect on the commercial counterfeiting trade.

## THE BENEFITS UNDER THE GSP PROGRAM ARE A PRIVILEGE AND SHOULD BE GIVEN TO COUNTRIES THAT TREAT AMERICAN BUSINESS WITH MUTUAL RESPECT

The GSP program is an aberration from the basic GATT principle of most-favored-nation treatment. The benefits which the United States grants under this program create a significant trade advantage for those countries who meet the eligibility requirements to receive duty-free treatment. Although we agree with the laudatory purpose of the program in assisting developing countries, we emphatically reject any notion that there is a "right" to GSP benefits. Rather, GSP eligibility is a privilege that should be conferred only on those countries who meet the economic need criteria and who treat the commercial interests of American business with mutual respect.

The present criteria for GSP eligibility clearly reflects a Congressional concern for whether an otherwise eligible country is deserving of the GSP privilege. Section 502(b) currently prohibits the President from designating a country as eligible if, _inter alia_, the country has expropriated U.S. property or repudiated contracts without providing prompt, adequate and effective compensation, or if the country does not take adequate steps to cooperate with the United States to prevent trafficking in illegal drugs.

If the GSP program is to be renewed, Congress should add a specific mandatory eligibility requirement under section 502(b) such that no country will be given GSP benefits when it is failing to provide adequate means under its laws to secure, exercise and enforce exclusive rights in intellectual property. "Adequate means" refers to specific laws and regulations which can _effectively_ present the infringement of unexpired patents of U.S. companies and the production and sale of unauthorized goods. When a developing country can demonstrate a good faith effort to timely institute such measures, but without complete success, the President should be given discretionary power to temporarily waive this requirement, provided, however, that he submits a full report to the Congress on the steps being taken by that country to ensure full compliance.

The members of the Coalition firmly believe that the protection of intellectual property rights should be a condition precedent to GSP eligibility, and, if conscientiously enforced, it would be a most effective weapon in stopping the current and wide-spread abuse of such rights. Among the major beneficiaries under the GSP program are countries like Taiwan, South Korea, Brazil, Colombia, Indonesia and the Philippines. These countries also happen to be the source of much of the counterfeit goods wreaking havoc in the U.S. and world markets. Of $8.4 billion in GSP imports in 1982, for example, over 45% were exported from Brazil, Korea and Taiwan, three of the countries most active in the production and distribution of counterfeits of U.S. products. A strong intellectual property rights requirement coupled to GSP eligibility, would make wise use of the tremendous leverage the United States has under this program to force problem countries such as these to become more responsible trading partners.

The need to condition GSP eligibility on the protection of intellectual property rights is even greater where the "advanced developing countries" are concerned. The Administration proposal to grant waivers under the "competitive need" limitations on certain articles pursuant to section 504(c) should be even more strictly controlled than the country eligibility requirements under section 502(b). Thus, Congress should require that before any such waiver could be granted by the President, there should be an opportunity for public notice and comment. This would enable the owners of American patents, trademarks, copyrights or trade secrets to voice their opposition to a particular waiver where the country involved is failing to give adequate protection to such intellectual property rights. Where a record of strong opposition to a competitive need waiver is made, the President would be in a stronger position vis-a-vis that country to extract some meaningful reforms before granting the waiver. If the country persists in its refusal to respect intellectual property rights, then the President should be required to withdraw or suspend the eligibility of the country as a whole pursuant to section 504(b).

## CONCLUSION

The International Anticounterfeiting Coalition considers the adoption of a strong, effective intellectual property provision to be one of the most important changes that Congress can make to improve the operation of the GSP program. The disrespect for intellectual property affects both developed and developing countries and extends beyond luxury and fashion goods to products which involve human health and safety issues. The potential leverage GSP provides American businesses over Taiwan and other "advanced developing countries" is the only reason that the eligibility of these countries should be continued.

## Amendments to the Generalized System of Preferences

Proposed by
The International Anticounterfeiting Coalition

1. Section 502(b) of the Trade Act of 1974, 19 U.S.C. § 2462(b), should be amended to include a new paragraph "(8)" as follows:

> (8) if such country fails to provide under its laws adequate means for foreign nationals to secure, exercise and enforce exclusive rights in intellectual property, including, but not limited to, patent, copyright and trademark rights, unless the President receives assurances satisfactory to him that the country is taking appropriate steps to provide such means and he submits a written report to both houses of Congress detailing the nature of those assurances.

2. Section 502(c) of the Trade Act of 1974, 19 U.S.C. § 2462(c), should be amended to include a new paragraph "(5)" as follows:

> (5) the extent to which such country provides effective protection for intellectual property rights, including, but not limited to, patents, trademarks and copyrights.

3. Section 504(c)(3)(B) of the Trade Act of 1974, 19 U.S.C. § 2464(c)(3)(B) (as proposed in S. 1718) should be further amended to read as follows:

> (B) In making any determination under subparagraph (A), the President shall give great weight to the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to its markets, including the provision of adequate means for foreign nationals to secure, exercise and enforce exclusive rights in intellectual property. (underlined portion is new)

## STATEMENT OF TONKA CORPORATION IN SUPPORT OF THE GENERALIZED SYSTEM OF PREFERENCES RENEWAL ACT OF 1983

This statement is submitted on behalf of Tonka Corporation in support of the "Generalized System of Preferences Renewal Act of 1983" (GSP). Tonka Corporation is a domestic manufacturer and marketer of toy trucks and cars, plastic tricycles, and play figures. Tonka's 1983 sales volume was $88 million. Domestic sales account for 70% of the Company's total sales volume. Tonka employs 204 people in the Minneapolis, Minnesota area in administrative, sales, and engineering positions. At Tonka's domestic manufacturing plant in El Paso, Texas, the Company employs 630 people. In addition to the Company's domestic employment, Tonka employs 339 people at a manufacturing plant in Juarez, Mexico, in the Mexican Border Zone.

Tonka Corporation urges Congress to enact the renewal of GSP through 1994 for toys, dolls and games from all developing countries including the more advanced developing countries such as Mexico, Hong Kong, Taiwan and Korea. We believe that renewal of GSP is in the national interest for the following reasons:

1. The GSP system permits toy manufacturers such as Tonka to achieve lower costs of production of toy products and components which must be produced outside of the United States. These lower costs enable U.S. toy companies to offer lower retail prices to American consumers in an extremely price-sensitive market. This, in turn, allows domestic toy companies to achieve significantly

higher sales volume for both GSP products and domestically produced goods and has the effect of increasing domestic employment.

2. In the toy industry, the availability of GSP treatment does not reduce domestic employment in manufacturing jobs.
3. GSP results in substantially lower retail prices for American consumers on many toys and games. The principal economic effect of a decision by Congress not to renew GSP (or GSP for the more advanced of the less developed countries) would be to increase retail prices on such toys by approximately 37%.
4. The GSP system is of major importance in stimulating economic development of certain countries which are politically important to the United States.

### I. GSP renewal will result in higher levels of domestic employment in the toy industry.

We strongly believe that renewal of GSP will result in substantially higher levels of domestic employment in the toy and game industry than would be the case if an increase in duties is imposed on toy products which now benefit from GSP. The market for toys and games is highly price sensitive. Consumers purchase toys at well-defined, retail price levels which have tended to stay relatively fixed even in periods of high inflation. If Congress decides not to renew GSP, consumer prices for toys which are now imported under GSP would increase by approximately 37%. This would result from an 11% increase in duty costs and the additional mark-up costs of gross profit margin requirements throughout the chain of distribution. As a result of price increases of this magnitude, sales volume in the American market for these toys would decline significantly. There would be no offsetting benefit to the American economy since there would be no increase in domestic production.

Because the toy market is a highly price-sensitive market, toy manufacturing must be managed to minimize costs. It is not feasible to automate toy production to a point where the cost disadvantages of manufacturing labor-intensive products in the United States can be overcome. This is because toy companies are required to introduce a large number of new products every year. In addition, companies must offer the market a broad range of styles, colors, and sizes which limits the unit sales volume that can be achieved on any single product.

Typically, American toy manufacturers structure their manufacturing operations along the following lines. Toy products which have relatively high labor cost as a percentage of the total product cost are produced in lower cost, less developed countries such as Mexico, Hong Kong, Taiwan or Korea. Often these products tend to be lower priced toys. These same manufacturers tend to manufacture in the United States those toys which have relatively lower labor cost as a percentage of total product cost.

For domestically produced toys, material costs and transportation costs will typically be more important cost factors than labor costs. Accordingly, there is no significant cost advantage in producing these toys outside the United States. Usually, domestically produced toys will be higher value and often larger products than toys manufactured in low cost countries.

The continued availability of the cost advantage provided by GSP on toys manufactured outside the U.S. will have the effect of increasing total domestic employment in the U.S. toy industry. This will result from higher sales volume and correspondingly higher employment levels in jobs such as engineering, distribution, marketing, sales and administration, and domestic manufacturing.

The GSP system actually stimulates the domestic manufacturing activities of U.S. toy companies. If the costs of imported toy products or components are low enough, American manufacturers will often perform some finishing operations, such as packaging, in their domestic facilities. They will also market playsets which integrate lower cost toy components imported under GSP with domestically manufactured, higher value play bases. These types of integrated playset products are very common, for example, in the toy vehicle and small doll and small figure product categories. If the cost benefits of GSP are not available, this type of domestic production activity would be reduced because it would be impossible to achieve the consumer prices required by the American toy market. For this reason, the elimination of GSP would reduce, not increase, domestic manufacturing activities and total employment in the toy industry.

The manufacturing activities of Tonka Corporation serve as an example of the economic relationships described above. Tonka manufacturers domestically approximately 62% of the products the Company sells in the American market. The products which Tonka manufactures domestically are large toy steel trucks, plastic tricycles, and playsets which incorporate components imported from lower cost countries.

At Tonka's Juarez, Mexico plant, the Company will manufacture in 1984 approximately $10 million (at manufacturer's sales value) of products imported into the United States under GSP. Tonka employs 630 people at the El Paso, Texas plant and 339 people at the Juarez, Mexico plant.

Tonka's production activities in Mexico under the current GSP system are directly responsible for the existence of 50 American jobs in the El Paso, Texas plant. The American jobs directly created include positions in tool making, quality inspection, final assembly and packout, and distribution. Moreover, because of the integration of Tonka's manufacturing and distribution activities at the El Paso, Texas and Juarez, Mexico plants, the production activities at the Juarez plant under the current GSP system contribute very significantly to the production levels and employment that we are able to maintain in the El Paso domestic plant.

Tonka's current patterns of production at its Mexico plant are very heavily dependent on the present GSP system. If GSP is terminated by Congress, the effect will be to reduce the economic attractiveness of manufacturing in Mexico compared to other production alternatives in the

Orient. Such a development could have a negative impact on the future levels of employment that Tonka would be able to maintain in the Company's domestic manufacturing plant.

We are very concerned about the possibility that Congressional elimination of GSP would cause retail prices to consumers of a significant part of our product line to increase in the range noted earlier. The direct result would be a significant reduction in the sales volume of the affected products and a corresponding reduction in our Company's ability to maintain spending on domestic manufacturing employment and other support activities relating to the distribution and marketing of the affected toys.

We particularly urge that Congressional action to extend GSP include more advanced developing countries such as Mexico, Korea, Hong Kong and Taiwan. As stated, the GSP system produces substantial economic benefits for the American economy and the American consumer. These benefits would not be available to the same extent if GSP were limited to relatively poorer, less developed countries. The toy market is a highly seasonal business which requires reliable sources of production and also requires that manufacturers be able to deliver products in a timely manner. In most cases, these attributes are not sufficiently developed in the poorer, less developed countries to enable companies to achieve satisfactory manufacturing performance.

II. GSP does not reduce American manufacturing jobs.

U.S. toy companies tend to manufacture domestically those products which are relatively material cost- and transportation cost-intensive (as opposed to products which are labor cost-intensive). Examples of such products would be Tonka's large Mighty Dump Truck which has a retail price in the United States of between $11.99 and $16.99 and Tonka's plastic tricycles which have average retail prices in the range of $19.99 to $24.99. Because of material cost and transportation cost factors, there are no significant economic advantages to producing these types of products outside the United States. The Company intends to manufacture large-scale toys in the United States whether or not GSP is renewed by Congress.

Tonka manufacturers in low cost areas outside the United States those toys where labor costs are a relatively high percentage of the total product costs. If Congress were to terminate GSP, the result would be to increase total production costs for goods now imported under GSP. However, the magnitude of such a cost increase would not offset the very large labor cost disadvantage of U.S. production for these types of products.

For example, a typical Tonka product manufactured in Juarez, Mexico and imported into the United States under GSP has a total direct manufacturing cost of $.70 and currently sells for a retail price of $2.54. If GSP were eliminated by Congress, the effect would be to increase direct manufacturing costs on this product to $.77 and the retail price to $2.85.

This cost increase would not result in a transfer of production of this product to Tonka's domestic manufacturing plant. If the same product were produced in the United States, the direct manufacturing cost would be $1.10. The effect of the loss of GSP would be to reduce total sales volume. Another result would be that it might cause the Company to consider transferring some production activity from the Mexican Border Zone to another low cost country in the Orient because of lower overall production costs.

## III. The principal economic effect of not renewing GSP would be to increase toy prices to consumers.

As stated, the principal economic effect of a decision by Congress not to renew GSP would be to substantially increase prices for many toy products to American toy consumers. There would be no corresponding benefit to the U.S. economy from increased domestic employment in the toy industry. Domestic employment of U.S. toy companies, including domestic manufacturing employment would be adversely affected. Accordingly, with respect to the impact on the U.S. toy and game industry, there is no economic justification for not renewing the GSP system.

## IV. GSP facilitates the economic development of certain countries which are politically important to the United States.

GSP stimulates the economic development of certain less developed countries which are politically important to the United States. Tonka's experience in Mexico is an example. The Company decided to establish a manufacturing plant in the Mexican Border Zone primarily because of the availability of GSP. If GSP benefits for Mexican-produced products had not been available, the cost of producing toy products in Mexico and importing them into the United States under the alternative "807" program would have been substantially less attractive. Under these circumstances, it is likely that the Company would have decided to locate its offshore manufacturing activities in a low cost area of the Orient rather than Mexico.

Private U.S. investment in Mexico as a result of the GSP program makes an important contribution to American foreign policy objectives. The problem of high unemployment levels in Mexico creates serious foreign policy risks for the United States as well as a major domestic problem in the form of illegal immigration. The development of American manufacturing activities in Mexico has made a major impact in creating Mexican jobs. This form of investment has also become a principal sources of foreign exchange for the Mexican economy, thereby contributing to the reduction of economic and political risks in Mexico and the alleviation of a potentially serious risk of Mexican default on financial obligations to U.S. banks.

## CONCLUSION

For the above reasons, we urge the passage of the "Generalized System of Preferences Renewal Act of 1983." Renewal of GSP will result in increased domestic employment in the toy and game industry. This legislation will also enable American consumers to continue to enjoy the benefit of reasonable prices for toy and game products.

Respectfully submitted,

Stephen G. Shank

Stephen G. Shank
President & Chief Executive Officer
Tonka Corporation

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bread for the world
a christian citizens' movement in the usa

# STATEMENT OF BREAD FOR THE WORLD
# BEFORE THE
# SUBCOMMITTEE ON INTERNATIONAL TRADE
# OF
# THE COMMITTEE ON FINANCE
# ON
# THE GENERALIZED SYSTEM OF PREFERENCES

Prepared by
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January 27, 1984

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Bread for the World, a Christian citizens movement with 45,000 members in the United States that supports U.S. government policies concerned with world hunger, appreciates this opportunity to submit a statement to the Subcommittee on International Trade of the Committee on Finance. In the past two years, Bread for the World members have worked on international trade issues and for the first time addressed U.S. trade policy in the Caribbean Basin Initiative. Bread for the World strongly supported the successful efforts to include the Stable Food Production Plan in the Caribbean legislation.

In our statement on S. 1718, the proposed renewal of the Generalized System of Preferences, we will focus on five issues: the need for the Generalized System of Preferences, the current U.S. debate on trade policy, the need to safeguard local staple food production, the need to include measures to guarantee human rights, and the relation of the Generalized System of Preferences to U.S. employment.

## 1. The Generalized System of Preferences.

Developing countries have clearly and often stated their desire for a program of trade preferences such as GSP. Trade accounts for a significant amount of economic activity in these countries. In 1982, developing countries earned $518.7 billion from exports; oil exporters accounted for $214.7 billion of this and non-oil exporters for $304 billion.

The poorest developing countries depend on raw materials and primary agricultural products for the bulk of their exports. The prices of many of these goods have been dropping while the prices of manufactured goods and oil have remained stable or risen. These countries must therefore export more and more raw materials just to keep purchasing the same amount of manufactured goods and oil. If they cannot export more, then they are forced to cut back on imports. In fact, in 1982 developing countries cut their imports by 11.6%.

The International Monetary Fund reported in 1982 that the terms of trade for non-oil developing country exports declined to their lowest level in 25 years. Despite cuts in imports, the overall value of developing country exports has not kept up with imports, creating a serious trade deficit. In 1975, this deficit was $28 billion; by 1980 it had risen to $54 billion. If developing countries are to decrease their reliance on raw material exports and close the trade gap, then some form of trade preference program is needed.

Bread for the World believes that GSP should be renewed with changes. We are particularly encouraged by that part of Section 4 of S. 1718 which would allow the least developed beneficiary countries to be excluded from competitive need limits. Although it is not clear that this exclusion will bring immediate benefits to any of the least developed countries, it does at least provide the opportunity for development of new economic sectors and is a move in the right direction.

The increased emphasis which S. 1718 seems to be placing on using GSP as a means of gaining increased U.S. access to developing country markets however seems to be a step in the wrong direction. When GSP was first introduced it was recognized that this program was not bilateral. It was an attempt to assist the developing countries to increase their trade capacity without placing them in the normal condition of providing reciprocity for U.S. goods. To the extent that any new version of GSP retreats from this commitment to non-reciprocity it would weaken the purpose of GSP and make it less beneficial to developing countries. If this provision is to apply only to the most advanced developing countries, the newly industrialized countries, perhaps the problem the provision addresses could be better handled through a process of graduation.

## 2. Trade with Justice.

Before advancing to specific recommendations for GSP renewal, we would like to offer an alternative view of the current debate on U.S. trade policy. This debate is cast as a choice between free trade and protection.

Free traders argue that there should be no restraints on trade because competition among producers is in the best interest of all countries. Placing conditions on trade, they argue, is an interference with the free working of the market. This ignores the fact that there are already many restraints on the market. The existing structure of international trade makes it difficult for new producers to enter the market. In addition, there have always been political constraints placed on trade. Recently, for instance, the U.S. used the threat of withdrawal of trade benefits in order to encourage Romania to alter its emigration policies.

Protectionists argue that it is necessary to protect domestic production before imports are admitted. They would impose duties, quotas, domestic content rules and other measures to restrict access to the U.S. market. They would thus restrict the opportunity for most developing countries to diversify their economic base.

Casting the argument in free trade/protection terms obscures the need to consider the creation of a just and more secure trading system.

Trade policies should be consistent with development policies which place the needs of people first. The effects of trade policy do not stop at the customs post. Trade policies affect the allocation of productive resources within a country and therefore have a great role to play in reducing hunger.

Traditionally, trade reform issues have been approached from the perspective that developing countries' needs will best be met by special programs such as GSP. By focusing on the country, rather than on the people, the question of who is likely to benefit from increased trade opportunities is ignored. Trade reforms which consider the distribution of benefits of trade and economic growth within a country must be developed. This is necessary to ensure that more open trade policies help and do not harm the poorest and most vulnerable people overseas or in the U.S. Trade policies also may be used to encourage developing countries to meet the needs of poor and hungry people if they do not already do so.

To the extent that more open trade policies may result in economic growth, the benefits of which are unequally distributed, within a country, they may also pose a threat to global security. In 1981, eleven political and religious leaders endorsed a statement on hunger and global security which said, in part,

> Ever greater numbers of people perceive the disparity between their own continuing deprivation and the prosperity of others, and judge their predicament to be neither just nor inevitable. As this perception grows, so does the likelihood of social unrest and violence. These, in turn, often bring disruptions in the flow of essential materials, adverse effects on the world economy . . . .

This statement was issued in support of the Hunger and Global Security Bill, one section of which dealt with trade preferences. Bread for the World believes that this concern can be applied to present consideration of GSP.

In most cases, creating a just and secure trading system means placing different restrictions and conditions on trade than is usually done. Because these measures violate free trade does not mean that they are protectionist in intent. They represent an alternative to free trade: trade with justice.

## 3. GSP and Agriculture.

GSP deals mainly with industrial goods, but according to USDA figures, in 1980 agricultural imports accounted for approximately 17% of GSP. For many of the less developed countries, agricultural exports still represent the most important source of foreign exchange and probably will continue to play that role for some time to come.

But the food needs of developing countries must be taken into account and be balanced against the need to earn foreign exchange from export crops. The Philippines, for example, has a highly developed export agriculture sector that produces coconut products, sugar, bananas and pineapple for export. Despite this agricultural abundance the Filipino population suffers from high levels of malnutrition. In 1973 it was estimated that 70% of the Filipino population received less than the recommended daily intake of calories. There is no reason to believe that this level has declined significantly in the intervening years. Eighty per-cent of pre-school children are thought to suffer from malnutrition. In FY 1982, over two and a half million Filipinos received U.S. food assistance. In such a situation, it does not make sense to increase incentives to grow export crops by giving duty free treatment to these commodities.

One possible approach to this problem is contained in the recently enacted Caribbean Basin Economic Recovery Act. That program includes a Stable Food Production Plan which seeks to ensure that duty free treatment granted to sugar and beef does not harm the nutritional status of the population in the countries which receive the benefits.

Bread for the World urges this Committee to include among the factors which determine a country's eligibility for GSP beneficiary designation the extent to which a country is taking steps to meet the nutritional needs of its population. In addition, current GSP law should be amended to deny GSP eligibility to agricultural commodities which are produced with resources formerly used for domestic food production, if the beneficiary government is not prepared to take steps to make up deficits in local food production. This would be a significant continuation of the policy first articulated in the CBI.

GSP eligibility should be expanded to include more processed agricultural commodities. At present, although many processed commodities are eligible, many are still subject to duty because they compete with production in the U.S. In 1981 the World Bank stated that if the duty were removed on processed agricultural commodities the increase in revenue to developing countries would probably be greater than the revenue from GSP itself. The World Bank concluded that such an action would have the greatest effect on the poorest 90 countries which have not yet been able to develop processing industries. Removal of these duties would mean that export revenue could be increased without necessarily having to grow more export crops and possibly jeopardizing local food production. Bread for the World encourages the Committee to remove the import sensitivity restrictions on processed agricultural goods from the least developed countries.

4. GSP and Human Rights.

Because we believe trade reforms must be examined in terms of who actually receives the benefits, Bread for the World advocates the incorporation of a provision that would make GSP eligibility conditional on the guarantee of human and civil rights, including the right of workers to organize and bargain collectively, for the citizens of otherwise eligible countries. For many, human rights have been defined narrowly in terms of free speech and political prisoners. The issue is far broader. The ability of people to act to end their hunger and poverty is a far easier task when their rights are protected. The ability of poor people and workers to earn a fair wage and share fully in the benefits of GSP-related trade depends as much on their ability to defend their interests as it does on the trade benefits themselves.

Brazil, for instance, attained high rates of economic growth in the 1960's and 1970's based on strong expansion of its export trade. But the increased exports did not address Brazil's basic problem of hunger and malnutrition. This rapid growth occurred while civil liberties were suspended. Union and peasant leaders were jailed or disappeared. Although there is considerable debate over the figures, there is no evidence to show that the situation of the poorest people in Brazil has improved as a result of this great growth in export trade. In the Philippines, the right to strike has been severely curtailed. In South Korea, another country which has placed great emphasis on increasing export production, under martial law many union members and leaders have been imprisoned.

Under existing political situations in many developing countries, poor people have been systematically excluded from the poltical process. In these circumstances it is unlikely that the benefits of GSP will reach poor and hungry people.

The right to organize and seek decent labor conditions is also linked to justice for the U.S. worker. Many businesses leave the U.S. and relocate in developing countries because wages are low in these counties. In many cases, these low wages are artificially maintained by governments that deny human rights and the workers' right to organize. If the absence of human rights lures industries away from the U.S. to these developing countries, then the U.S. worker is being asked to pay a high price for his or her hard won labor rights.

The question is not whether U.S. workers should be protected from competition. The question is whether the U.S. government whould give trade preferences to countries which do not allow workers to organize and do not guarantee their citizens' human rights.

5. GSP and the U.S. Worker.

Trade preferences for developing countries inevitably raise the question of the effect of increased imports on U.S. jobs. On the one hand, if developing countries find an open market for their exports in the U.S. they will be able to deal more effectively with their debt problems and also be able to buy more U.S. goods. The result should be an increased opportunity for U.S. exports. Indeed, the Administration has pointed out that developing countries account for nearly 40% of U.S. exports and that exports to developing countries are growing faster than those to our other trading partners. On the other hand, many of the industries which offer the most opportunity to developing countries are the industries which are in trouble here at home.

Trade policy can not be considered in isolation from employment considerations. If we are to support programs such as GSP we need also to support strong and effective programs of trade adjustment assistance and legislation concerning plant closings. This is particularly important if GSP trade preferences make it possible to export products to the U.S. duty free from plants which have been moved overseas to take advantage of low wages.

Generally the workers who are most seriously affected by job loss due to trade are women and minorities who have lower educational levels, have a greater likelihood of having a family income below the poverty level and take longer to find new employment. Thus the burdens of adjusting to increased imports are borne by those less able to respond to the changes. A just trading system will take account of this issue as well as the situation of workers in developing countries.

Clearly the revision of GSP will be a complex matter and this Committee will have to weigh the claims of many interests. Bread for the World encourages the Committee to use GSP creatively as a tool in the U.S. effort to end hunger in the world.

## Statement of the Honorable Jerry Huckaby
Subcommittee on International Trade
Senate Finance Committee
Hearing on GSP Reauthorization
January 27, 1984

Mr. Chairman, I appreciate this opportunity to present my views on the proposed renewal of the Generalized System of Preferences.

Of the factors that must be kept in mind in drafting legislation to achieve this purpose, I want to call the Committee's attention specifically to these:

1) The GSP is intended to benefit needy, developing countries, not countries which have shown a degree of industrial maturity equal to that of the most advanced nations.
2) The GSP is essentially a concessional program; that is, while it is consistent with American obligations under the General Agreement on Tariffs and Trade, no beneficiary developing country can claim to be "entitled" to duty-free importation by the United States of any specific product.

3) The United States has since 1975 imposed certain restrictions on the availability of GSP benefits. Concessional GSP treatment is not available, for example, to nations that expropriate without compensation, or that do not cooperate in international efforts to suppress trade in narcotics. Such restrictions do not violate the GATT, and, in my view, they are entirely appropriate as a matter of policy.

4) GSP eligibility should not be conferred or withdrawn capriciously, but at the same time, the President should continue to have authority to change a country's eligibility for good cause shown.

Mr. Chairman, I believe that a good reason for withdrawing GSP eligibility for an otherwise qualifying country is a determination by the President, on the advice of the United States Trade Representative, that the nation in question has violated its international undertakings in the commercial arena. Under existing procedures, such a determination may result from the petition filed by an interested private party, or on USTR's own initiative. A thorough USTR investigation would occur in either case, with an opportunity for the public to be heard.

I urge this Committee to promptly consider S.2191, introduced by Senator Prior, which would amend both the GSP and §301 of the Trade Act of 1974. Consideration of that bill should precede the full-scale review of the GSP now beginning by this Committee. Authorizing the President to deny benefits in the event of a violation of well settled trading rules is a reasonable solution to a continuing problem plaguing many of my constituents.

For example, the Government of Taiwan heavily subsidizes the exportation of rice, and this harms United States rice farmers in two ways. It displaces sales our exporters would like to make to Indonesia, for example. And it lowers the price of rice worldwide.

Mr. Chairman, I firmly believe that Taiwan is a country in whose development we are vitally interested, and which is generally deserving of GSP concessions. But Taiwan must commit itself to living by the same rules of international trade that the rest of us observe.

In short, we must insist on basic principles of fairness from all of our trading partners, and especially those to whom we grant special privileges.

**AFTAC** AMERICAN FIBER, TEXTILE, APPAREL COALITION

1101 CONNECTICUT AVENUE, NORTHWEST, WASHINGTON, D.C. 20036 (202) 862-0500

February 2, 1984

The Honorable John C. Danforth
Chairman
Subcommittee on International Trade
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Chairman Danforth:

The American Fiber, Textile and Apparel Coalition (AFTAC) appreciates the opportunity to comment on S. 1718, the proposal to renew the Generalized System of Preferences. AFTAC is a national coalition of labor and management organizations in the textile and apparel industry in the United States. The 21 member-organizations of AFTAC are located throughout the nation and produce the vast majority of textile and apparel items made in this country.

The Trade Act of 1974 exempts from GSP coverage "textile and apparel articles which are subject to textile agreements". This language has been interpreted on occasion to mean articles which are the subject of restraint agreements, either under specific ceilings or under consultation mechanisms. This has resulted in efforts to make products eligible for GSP which are clearly textile in nature and by definition should be exempt. In recent years these articles have included hand-woven knotted or knitted carpet, camping tents, man-made fiber flatgoods, coated fabrics and others. This had led to lengthy administrative proceedings and on occasion to the filing of court cases.

AFTAC strongly believes by any reasonable standard of interpretation, that the Multifiber Arrangement is a textile agreement and that the phrase "subject to textile agreements" is intended to encompass all textile and apparel items covered by the Multifiber Arrangement or a successor agreement regardless of whether they are covered by specific restraints.

Amalgamated Clothing & Textile Workers Union
American Apparel Manufacturers Association
American Textile Manufacturers Institute
American Yarn Spinners Association
Carpet & Rug Institute
Clothing Manufacturers Association of America
International Ladies' Garment Workers' Union
Knitted Textile Association
Luggage & Leather Goods Manufacturers of America
Man-Made Fiber Producers Association, Inc.
National Association of Hosiery Manufacturers
National Association of Uniform Manufacturers
National Cotton Council of America
National Knitwear Manufacturers Association
National Knitwear & Sportswear Association
National Wool Growers Association
Neckwear Association of America
Northern Textile Association
Textile Distributors Association, Inc.
Work Glove Manufacturers Association

AFTAC therefore proposes for the Subcommittee's consideration the following amendment which would remove this ambiguity from the law:

> Subsection (c) (1) (A) of Section 503 of the Trade Act of 1974 (19 USC 2463) is amended to read as follows:
>
> > "A. Textile and apparel articles which are or have been subject to one or more textile agreements, including the 'Arrangement Regarding International Trade in Textiles', whether or not subject to specific quantitative limits,"

Once again, AFTAC appreciates the opportunity to comment on S. 1718 and requests that this letter be made a part of the hearing record.

Sincerely,

W. Ray Shockley

WRS/dlc

GOVERNMENT OF ISRAEL
TRADE CENTER

## WRITTEN STATEMENT OF ABRAHAM ROSENTAL

BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE
UNITED STATES SENATE
ON RENEWAL OF THE UNITED STATES
GENERALIZED SYSTEM OF PREFERENCES

JANUARY 27, 1984

I am Abraham Rosental, Consul and Trade Commissioner to the United States for the Government of Israel Trade Center. I am writing to stress Israel's support for continuation of the GSP program, to emphasize to you that Israel has need of continued GSP benefits, and to share my thoughts on how the program might be improved to benefit all developing countries.

As far as Israel is concerned, the GSP program has been of definite assistance to our exporters. Israel's exports have continued to grow under the program to the point where Israel exported $407 million worth of GSP products to the United States in 1982. The mix of products exported to the United States under the GSP from Israel has also been considerable, running from simple agricultural products such as melons to highly sophisticated medical devices such as CT scanners and surgical laser apparatus.

The ability to export these products has helped Israel to reduce to a degree its balance of payments deficit and to absorb the numerous immigrants that have come to Israel since establishment of the State. We are thus very enthusiastic about the program. That we are enthusiastic may be seen from our continued participation in the annual review procedures. Israel's exporters have participated in every annual review since the inception of the program.

I am aware that there is consideration being given to reducing certain countries' benefits under the program. I am hopeful that such reductions will not affect Israel. While it is true that Israel has a high GNP per capita and is seventh in terms of utilization of the GSP program, I do not believe -- and I hope this subcommittee and the Congress will agree -- that Israel should be a candidate for reduced benefits. Clearly the amount of utilization of the program is one of the least valid reasons for penalizing a country. So too, the per capita GNP of a country is only one out of many indicators of a country's level of development.

With respect to Israel specifically, it is not unfair or incorrect to say that Israel is unique. There is no other country in the world where upwards of 40% of the GNP is committed to defense needs and where inflation annually runs at or above 100%. The country's balance of payments deficit is considerably out of line for a country of less than 4 million inhabitants, as is the the overall current account deficit, which now stands at over $4 billion.

Israel also has the highest debt per capita of any nation in the world. And has historically run a substantial trade deficit. The trade deficit with the United States alone in 1981 was over $400 million.

Israel is also the only developing country, either on or off the GSP, having closed neighboring country markets. While virtually all other developing countries can sell to their neighbors, Israel is forced to export considerable distances, either to Europe or to the United States. This, of course, increases the average selling price of all of Israel's exports and makes Israel that much less competitive in world markets.

Israel also has no major natural resources on which to build its economy. With the return of the Sinai oil fields following the Camp David peace accords, Israel gave up all of its petroleum producing potential.

In short, Israel, notwithstanding per capita GNP or share of the GSP, is not an appropriate target for reduced benefits. Merely because a country is utilizing the program or has a high per capita GNP, does not make that country competitive with developed country exporters. This may be seen from our exporters' experience with gold rope chain jewelry. In 1980, when Israel had GSP benefits for this jewelry, Israel shipped over $4 million worth of gold rope chain to the United States. In that same year, total imports under the category were slightly less than $8 million. Accordingly, Israel lost GSP benefits for this item for exceeding the 50% competitive-need limit. In 1982, the first full year of no GSP benefits for gold rope chain from Israel, imports from Israel dropped to about $200,000 out of total imports of over $14 million. That is, in 1982 Israel's share dropped to about 1% of all gold rope chain jewelry imports.

Hence, the assumption that Israel was competitive in the category and could compete without GSP benefits was proved incorrect. Israel has literally been driven out of the gold rope chain market because, without GSP benefits, it cannot compete with other GSP-eligible countries, or with Italy, which although ineligible for GSP benefits, has the comparative advantage of hundreds of years of gold jewelry artisanry. While Israel's exports of gold rope chain have declined to $200,000, Italy's sales of gold rope chain in the United States market have grown since 1980 by over $1 million.

In sum, the gold rope chain experience proves that Israel is not necessarily competitive and therefore a candidate for reduced benefits merely because it has a high per capita GNP or because it has utilized the program to a higher percentage than have some other GSP beneficiaries.

I want to also point out that we in Israel do not believe that U.S. industries are being hurt in any way from GSP benefits for Israel's products. If Israel were not exporting its products to the United States under the GSP, clearly the slack would be made up by developed country exporters. This is especially true since Israel is not producing folklore type articles but rather articles that are more sophisticated. For example, one company, Elscint, exports under the GSP CT scanners and gamma cameras that compete directly with Siemens, a West German producer of medical equipment. And just last year an Administrative Law Judge of the United States International Trade Commission found that Elscint's CT scanners and gamma cameras are causing no injury to the U.S. industry.

The GSP also benefits the United States by allowing Israel to accumulate foreign exchange. It is no secret that Israel is a major beneficiary of U.S. aid. To the extent that Israel can accumulate dollars through trade not aid, the U.S. economy is benefitted. Moreover, many of these dollars are returned to the United States for purchase of U.S. agricultural and manufactured goods. For example, Continental Grain sells Israel substantial amounts of grain which are paid for in dollars -- some of which dollars are generated by GSP exports.

Finally, the U.S. economy has benefitted because many of the products produced by Israel and exported to the United States help to reduce consumer costs. I already mentioned Elscint. Elscint's CT scanners, which may cost more than $1 million, would carry a duty of over $20,000 if it were not for the GSP. Another of our exporters, Pollok, sells other types of medical equipment to the U.S. also at reduced costs because of the GSP. This savings in duty has directly benefitted the United States health care consumer by keeping the cost of CT scanners and other types of equipment down, at a time when health care costs are increasing in the U.S. at a rate well above the overall inflation rate.

For all of these reasons, we in Israel are hopeful that the GSP will continue, that Israel will continue as a beneficiary of the program, and that United States industries and consumers will realize that trade is a two way street and that not only have developing countries such as Israel benefitted from the GSP, but that the U.S. economy has benefitted as well.

Because we in Israel believe that the United States will see the wisdom of continuing the GSP program, let me now mention a few ways that we believe the program might be improved:

First, we would like to see more discretion given to the President to waive the competitive-need limits under the appropriate circumstances. It would seem that such discretion is warranted, given the many unique occurrences that militate against a strict, automatic competitive-need limit. I have already mentioned gold jewelry. One of the reasons that Israel's export's of gold jewelry grew so quickly, was that gold, the raw material for jewelry, increased in price more than twofold in less than four years. As a result, Israel petitioned the USTR to subdivide the broad basket category for gold jewelry, lest Israel exceed the dollar value competitive-need limit. Unfortunately, as a result of subdividing the categories, Israel exceeded the 50% limit for one narrow category. Had the President had the discretion originally to waive the competitive-need limit in the face of the unprecedented increase in gold prices, Israel would probably still have benefits for all gold jewelry products.

Another example is licorice extract. Israel exports licorice extract to the United States. However, the major exporter historically of licorice extract to the United States has been Iran. As a result of the recent turmoil in Iran, however, Iran briefly stopped shipping licorice extract to the United States. This catapulted Israel to over 50% of the imports of the product, notwithstanding the fact that Israel's exports did not increase to any degree. If the President had had the discretion to waive the competitive-need limit, certainly he could have taken into account this unique occurrence in Iran and the fact that Israel exceeded the competitive-need limit not because it had become competitive, but only because Iran's exports had come to a complete halt.

Second, we would hope to see more automatic redesignation of items that have exceeded the competitive-need limit in one year but have dropped back to below 50% or the dollar value in the next. Currently, it appears that redesignation is often arbitrary and political. Needless to say, our rope chain jewelry which has now dropped to 1% of the import market and even less of the U.S. market is a case in point. Another case in point is the chemical ethoxyquin. Ethoxyquin sales by Israel in the U.S. are only $200,000 annually. Israel is virtually the only exporter of the product to the U.S. However, ethoxyquin, removed for exceeding the 50% limit before the de minimis provision came into existence, has not been redesignated.

Third, we believe a provision should be added permitting U.S. raw materials and components to be taken into account for the GSP country of origin rules. As I noted, Israel is a major importer of U.S. products. Some of the products are imported as raw materials and components to be fabricated into finished items and reexported to the United States. Since these purchases by Israel directly benefit U.S. producers, we believe that components and raw materials of U.S. origin should be includable in the elements that go to make up the 35% added value.

Fourth and finally, we believe U.S. components should also be taken into account in determining whether or not a product has exceeded the competitive-need limit. If a country is over the dollar value or 50% competitive-need limit, but many of the components of the product are of U.S. origin, these U.S. origin components should be factored out of the calculation before it is determined that the item has exceeded the competitive-need limit. Not to do this, not only penalizes the exporting country, but also senselessly penalizes those U.S. industries supplying components to Israel.

I M INC.

WRITTEN STATEMENT OF
AMIR PORAT
PRESIDENT, I.M. INC.
23 COMMERCE ROAD
FAIRFIELD, NEW JERSEY 07006
(201) 227-3740

BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE

UNITED STATES SENATE

ON RENEWAL OF THE UNITED STATES
GENERALIZED SYSTEM OF PREFERENCES

JANUARY 27, 1984

I.M. Inc. is an American company established by a group of American investors. I am an Israeli citizen, running the company under a 4 year contract, and a member of the Board of Directors of Pollak Ltd., an Israeli company manufacturing medical and surgical devices. In 1981, I came to the United States on behalf of Pollak to develop the U.S. market after we encountered difficulties selling elsewhere.

Pollak now distributes its medical devices in the United States through I.M. Inc. Prior to selling in the United States, Pollak's products tended to be relatively unsophisticated medical materials such as bandages. We have now developed for the U.S. market more sophisticated surgical instruments, including operation sets and nursing sets.

Currently we sell to health organizations, such as the Health and Hospital Corporation of New York, which runs 18 hospitals, to the Veterans Adminstration, and to independent hospitals all over the U.S.

The products we sell to these hospitals have replaced expensive surgical instruments, often bought from developed countries such as Germany. Previously hospitals bought expensive reusable surgical instruments, costing $10 to $20 apiece. With Israeli technology, we have now been able to replace these expensive items with disposable instruments, costing $0.30 to $1.00. In fact, Pollak was one of the first to produce disposable instruments in sets.

These disposable sets help reduce medical costs, not only by reducing the cost of the item, but also by eliminating the need for sterilization: the kits are themselves sterile. (The possibility of contamination is also reduced since the kits are used only once and disposed of).

Currently we are selling these kits only in the United States; however, we hope to begin selling in other markets soon. We could not have started our operations in the United States without the GSP. Knowing that the United States gave duty free benefits on these products was one of the main reasons we came to the U.S., and if we were to lose GSP benefits we probably could not continue to sell in the U.S.

This would be unfortunate since, as I noted, our products are helping to keep health care costs down. We are also continuing to develop, with Israeli technology, new items that will keep costs down in the future.

Since establishing operations we have also discovered that some of the products are better when produced or packed in the United States. We have opened operations in New Jersey, where we employ 15 to 20 U.S. citizens.

All of this would not be possible without GSP benefits, since without the benefits our products would not be competitive with the surgical instruments produced in countries such as Germany. I, therefore, hope that the committee will support renewal of the GSP and will also support continued benefits for Israel. I think it is fair to say that with respect to Pollak's products, the U.S. has benefitted as much from the duty free benefits as has Israel.

## ROHM AND HAAS COMPANY'S COMMENTS
## ON S.1718

The Rohm and Haas Company is a leading domestic manufacturer of acrylic sheet. We sell our acrylic sheets under the trademark Plexiglas with sheet production facilities in Bristol, Pennsylvania, Knoxville, Tennessee and Louisville, Kentucky.

We do not oppose renewal of the Generalized System of Preferences (GSP), but urge strongly that the renewed program be revised appropriately to ensure that unwarranted distribution of GSP benefits such as those now bestowed upon certain imports of acrylic sheet from Taiwan is not perpetuated.

### ECONOMIC DEVELOPMENT OF TAIWAN - ACRYLIC SHEET

In our opinion, which we believe is shared by the other domestic manufacturers of acrylic sheet, Taiwanese producers of acrylic sheet are well-established and hardly in need of tariff benefits.

Although there are 20 Taiwanese companies manufacturing acrylic sheet, three large manufacturers are responsible for approximately 85% of the production and exports of acrylic sheet. Taiwanese production of acrylic sheet has grown from a mere 150,000 pounds in 1966 to over 40 million pounds in 1982. It is important for the Senate Finance Committee to know that only 20% of all acrylic sheet manufactured in Taiwan is for sale and use in Taiwan while 80% of all Taiwanese acrylic sheet has been exported. Of this, over 50% is exported to the United States. It is also important for the Committee to know that Canada and the countries of Europe do not extend preferential tariff treatment to acrylic sheet and yet, Taiwanese acrylic manufacturers are able to compete very successfully in these countries.

Imports of acrylic sheet from Taiwan to the United States have been increased from 0.4 million pounds in 1977 to 12.7 million pounds in 1982 and an estimated 20 million pounds or more in 1983.

According to data obtained from the Journal of Commerce, Taiwan, in 1981 and 1982, was responsible for approximately 90% of all acrylic sheet imported into the United States. This percentage has grown from 45% in 1978. It is clear that Taiwan dominates the imports of acrylic sheet, and such action has a detrimental effect on the economic development of countries which are more worthy of obtaining duty-free treatment for acrylic sheet.

The major raw material used in the manufacture of the types of acrylic sheet imported from Taiwan is methyimethacrylate (MMA) monomer. Prior to 1978, most MMA monomer was imported into Taiwan from Japan. In October of 1978, an MMA monomer plant was built in Taiwan. According to the 1982 Report of the Petrochemical Industry Association of Taiwan, the annual capacity of the MMA monomer plant is approximately 18,000 metric tons per year. A quick glance at their report would convince most people that the Taiwanese petrochemical industry is well-developed.

It is evident that the Taiwanese acrylic industry is self-sufficient because it possesses the capability to produce not only the raw material, MMA monomer, but also the finished end product, i.e., acrylic sheet. The Taiwanese acrylic industry certainly is able to compete effectively on an international basis.

## ADEQUATE MARKET ACCESS TO U.S. EXPORTS

Although we have not tried to export acrylic sheet to Taiwan, we would have a very difficult time doing so in view of their total tariff of 55% on CIF value on acrylic sheet compared to 6% to 8.5¢/# in the USA. The Taiwanese tariff rate includes duty, harbor tax and a commodity tax.

## PROBLEMS WITH OUR TARIFF LAWS

During the past five years, Taiwan has used three different five-digit classifications to import acrylic sheet into the United States. Only one of these classifications, item 771.45 TSUS, is limited in its coverage solely to acrylic sheet. In our opinion, item 771.45 is the only classification intended by the Congress to be used for acrylic sheet.

Less than 25% of the imports of Taiwanese acrylic sheet has entered the United States under tariff classification item 771.45 during the past several years. However, the imports from Taiwan accounted for well in excess of 50% of total imports of acrylic sheet from all countries under item 771.45. Thus, Taiwan exceeded the competitive need limit (50% of total imports of all products included under an individual five-digit TSUS classification item). Taiwan therefore, was no longer eligible for duty-free treatment during the years 1979, 1980, 1982 and 1983, and continue ineligible for duty-free treatment during 1984. The ineligibility of Taiwanese acrylic sheet for duty-free treatment, when imported under item 771.45, is a direct result of the competitive need limit rules of the GSP as established by the Congress, and this is as it should be.

The problem is with the other two five-digit classifications the Taiwanese have used to import acrylic sheet into the United States. These classifications are not limited in their coverage to one type of plastic sheet, as item 771.45 is limited to acrylic sheet. Rather, each classification includes a variety of types of plastic sheets. The inclusion of several different types of products in a multiple product or "basket" classification permits imports of any one type of product from any one country to avoid exceeding the competitive need limit for the five-digit "basket" classification, even though these imports greatly exceed 50% of total imports of that individual product.

One of the two "basket" classifications, item 771.43 TSUS, was recognized by the International Trade Commission as incorrectly covering acrylic sheet, and a correction was made in February 1983 by deleting the statistical annotation, 771.4320 TSUSA, from the Tariff Schedules.

The other "basket" classification, item 771.41 TSUS, continues to be used for the importation of Taiwanese acrylic sheet. In fact, more than 75% of the acrylic sheet imported from Taiwan is imported under item 771.41. Because item 771.41 includes other types of plastic sheets imported in large quantities from other countries as well as from Taiwan, the imports of acrylic sheet from Taiwan do not exceed 50% of the total of all imports of all types of plastic sheets included under this classification. Thus, imports do not exceed the competitive need limit and continue to enter the United States free of duty.

Taiwanese producers of acrylic sheet, as well as other foreign producers, have realized that the use of multiple tariff classifications, and especially the use of multiple product ("basket") classifications, in the Tariff Schedules of the United States, make ideal cover for market penetration and have used "basket" classifications exceedingly well to continue receiving duty-free treatment even though imports of acrylic sheet from Taiwan enter the United States in large volume and account for approximately 90% of all imports of acrylic sheet into the United States.

This perverse result can be attributed directly to the fact that the annual examinations of import statistics to determine which products imported from which countries exceed the competitive need limits extends only to five-digit tariff classifications and not to individual products within those five-digit tariff classifications.

## OVERALL INTERESTS OF THE USA

The acrylic industry in the United States has acted responsibly in defining safe standards of practice in the use of acrylic sheet and has sought conscientiously to limit the market of acrylic sheet to the uses defined by such standards. It is a service rendered on behalf of the public generally and on behalf of the acrylic industry.

Taiwanese acrylic manufacturers, when shipping into the United States, have neither made an effort to meet American standards of disclosure, nor to comply with American regulations when their acrylic sheet is used in buildings, aircraft, motor vehicles, etc. Such conduct puts at risk the results of years of effort by the domestic industry to assure safe use of acrylic plastics and puts at risk the good will and broad acceptance of acrylic sheet.

Another factor which should be taken into account is that acrylic plastics are important to the defense of the United States. Acrylic plastics are used as glazing in all types of military aircraft, especially helicopters, aircraft tracking and plotting boards, illuminated instrument panels, the optical block in tank periscopes and in a variety of other applications. There is no substitute for acrylic sheet in the defense effort. The further encouragement of acrylic imports from Taiwan could place U.S. production capabilities in jeopardy.

## SUMMARY AND RECOMMENDATIONS

In summary, we have attempted to acquaint you with a source of competition to the domestic acrylic sheet industry that is simply not deserving of the benefits bestowed under the GSP. Taiwanese producers are well-established, mature, self-sufficient and internationally competitive. We strongly urge the Committee to recommend that no GSP benefits be accorded acrylic sheet which is imported from Taiwan.

To accomplish this, we recommend that GSP benefits not be extended to multiple article ("basket") classifications of the Tariff Schedules as requested in testimony by the Office of the Chemical Industry Trade Advisor (OCITA). Also, that GSP benefits not be extended to any tariff item whose description begins with the word "other" unless there is additional qualifying language that restricts the subject importations to an individual type of product.

If "baskets" continue to receive the benefits of the GSP, we recommend that provisions be made to break-out or line-out individual articles from "baskets" into separate seven-digit TSUSA numerical designations, and that the competitive need limit provisions be applied on the basis of seven-digit TSUSA items rather than being limited to five-digit items, as at present.

CALIFORNIA STATE
WORLD TRADE COMMISSION

**MARCH FONG EU, Chair**
*Secretary of State*

**GEORGE DEUKMEJIAN**
*Governor*

**LEO T. McCARTHY**
*Lt. Governor*

**FRED W. ANDREW**
*Superior Farming Company*

**WALTER F. BERAN**
*Ernst & Whinney*

**THOMAS L. BERKLEY**
*Berkley, Rhodes and Schwartz*

**WARNER W. HODGDON**
*National Engineering Co.*

**C. ROBERT LANGSLET**
*Port of Long Beach*

**LILLY LEE**
*Lilly Enterprises, Inc.*

**JOHN R. LIEBMAN**
*Nossaman, Guthner,*
*Knox & Elliott*

**FRANK R. LIGHT**
*Sun Diamond Growers*
*of California*

**E. A. MELENDEZ**
*Atlantic Richfield Co.*

**ROBERT T. MONAGAN**
*California Manufacturer's*
*Association*

**MAUREEN REAGAN**

**ROBERT E. WELK**
*Atchison, Topeka &*
*Santa Fe Railway Co.*

**GREGORY MIGNANO**
*Executive Director*

January 23, 1984

The Honorable John C. Danforth, Chairman
Senate Committee on Finance
Subcommittee on International Trade
Washington, D.C. 20510

Dear Senator Danforth:

Proposals to authorize extension of the Generalized System of Preferences are to be considered by the Subcommittee on International Trade in this session. With this letter, I am transmitting to you the position of the California State World Trade Commission on the GSP program. We would be pleased to assist you in your consideration of this matter in whatever way we can.

Sincerely,

Greg Mignano
Gregory Mignano
Executive Director

Encl.

1121 L Street, Suite 310 Sacramento, CA 95814 (916) 324-5511 Telex: 176895

CALIFORNIA STATE WORLD TRADE COMMISSION

Adopted 1/17/84

## GENERALIZED SYSTEM OF PREFERENCES

The Generalized System of Preferences (GSP), as authorized by Title V of the Trade Act of 1974, grants duty-free status to products imported to the United States from developing countries. GSP was intended to assist beneficiary developing countries increase their exports, diversify their economies, and reduce their dependence on foreign aid. The California State World Trade Commission recognizes that GSP has contributed to the long-term economic development of some developing countries and has stimulated two-way trade with the United States. The Commission supports the extension of GSP, scheduled to expire in January 1985, contingent upon resolution of several problems in the existing program. The California State World Trade Commission:

1. Discourages the inclusion of agricultural items for GSP designation.

    - GSP was intended to encourage industrial, not agricultural, development in developing nations.

    - Specialty crops, including fruits, vegetables and tree nut crops produced primarily in California, have increasingly been proposed for GSP designation.

    - Other developed countries limit or exclude agricultural items from GSP consideration.

    - Comparative advantages in other factors such as wage rates reduce the need for preferential tariffs on agricultural commodities.

2. Supports adoption of a schedule of graduation from the GSP program for countries which have demonstrated their ability to compete in foreign markets. Almost 70% of program benefits go to but five countries, all of which are generally recognized as industrialized.

3. Recognizes that GSP designation is a unilaterally conferred benefit, not an entitlement. As such, the denial of GSP benefits for countries with restrictive trade practices is appropriate.

4. Urges that beneficiary countries be required to demonstrate the developmental benefit of preferential tariff treatment.

    - Beneficiary countries often have been unwilling or unable to document the benefits likely to flow from duty-free status. The burden now rests on the U.S. domestic industry to document injury resulting from proposed GSP treatment.

5. Proposes that once a product has been denied GSP treatment, no like applications may be considered for a specified period of time.

    - Annual review of product applications by GSP eligible countries has been burdensome and costly for the U.S. government and the U.S. domestic industry alike.

## CALIFORNIA STATE WORLD TRADE COMMISSION

Adopted 1/17/84

### STATEMENT OF PRINCIPLES AND POLICY OBJECTIVES
### 1984

In creating the California State World Trade Commission, the California Legislature affirmed the State's commitment to international economic competitiveness. The development of trade and promotion of foreign investment and tourism are vital to the overall growth of the California economy. Such activities generate employment, improve the trade balance, enhance the tax base, and provide for greater consumer choice.

The composition of the Commission also reflects a commitment to an effective partnership between government and business. The Commission, chaired by the Secretary of State, includes the Governor and the Lieutenant Governor. Twelve additional members represent a variety of international trade interests, including manufacturing, services, agriculture, and transportation. The Commission is assisted by an Advisory Council of leaders from private industry and representatives of the executive and legislative branches of State government. Thus, resources of both the government and the business community are mobilized to advance California's international economic objectives.

The Commission serves as the official representative of the State of California to foreign governments, and is chartered to undertake a variety of trade promotion, research, and informational activities. The Commission also serves as a "voice" for the State on matters of international trade and investment, and bases its work program on the following Policy Principles:

The California State World Trade Commission:

- Favors a trade policy based on expansion and liberalization of the trading system to provide greatest opportunities for employment and economic growth.

- Encourages bilateral and multilateral negotiations to reduce and eliminate restrictive trade practices abroad, including quotas, tariffs, subsidies, boycotts, and non-tariff barriers.

- Supports vigorous enforcement of U.S. and international trade laws to afford protection to California industry and agriculture against unfair foreign competition.

- Resists measures which have the effect of restricting or discriminating against foreign imports in a manner inconsistent with U.S. and international trade laws.

- Advances California's trading interests before the state government, federal agencies, the U.S. Congress, and international organizations, and encourages the harmonization of trade policies at all levels.

- Proposes measures which promote international competitiveness and minimize unwarranted restrictions or regulatory burdens on exporters and foreign investors.

- Recognizes the importance of maintaining and enhancing California's image as a reliable supplier of manufactured goods, agricultural products, and services.

- Supports programs to provide California exporters with access to competitive export financing, whether through banks, state institutions, or national agencies such as the Export-Import Bank.

- Supports an "open door" policy toward foreign investment and encourages policies and programs which help create a favorable investment climate.

- Cooperates with the excellent network of local and regional trade promotion groups throughout the State to maximize resources and avoid duplication of effort.

- Places a priority on the following issues in view of California's unique geographic position and economic strengths:

  1. California's enhanced international trade and investment relationships, recognizing the growing interdependence of economies.

  2. California's agricultural trade, particularly due to the diversity and specialization of agricultural production and the frequent subordination of California's interests to those of other states and industries in national policy making.

  3. California's role as a "gateway state", calling for sound export policies, strong business services, and a well-developed infrastructure and transportation system.

4. California's trade in the high technology and service sectors, in which California leads the rest of the nation and the world, and for which existing trade definitions and rules are inadequate.

5. California's position as a center of international tourism and host to visitors of all nations.

The Commission recognizes the dynamic forces of international trade, and will regularly review its Principles and Policy Objectives to ensure they are consistent with the overall purposes of the Commission and the best interests of the State.

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January 27, 1984

Honorable Senator John C. Danforth
U. S. Senate Finance Committee
Subcommittee on International Trade
460 Russell Senate Office Building
Washington, DC 20510

SUBJECT: Danforth Bill S.1718 to "Reauthorize the Generalized System of Preferences (GSP)"
Proposed Amendment of International Anticounterfeiting Coalition

Dear Senator Danforth:

Thank you for the opportunity to submit this statement on behalf of the IAC's proposal to add an intellectual property rights factor to the list of factors considered by the President relative to designating a beneficiary developing country to the GSP program. We fully support the proposal as a member of the IAC.

We believe that a preference program ought not to benefit a country whose laws do not protect intellectual property rights of foreign nationals with the result that U.S. enterprises are subjected to unfair treatment and loss of property. It is common knowledge that the computer industry has been attacked by persons seeking to pass off to the public software and hardware products that purport to be originals but, in fact, are inferior, counterfeited copies. Such counterfeiting often originates in LDC's whose governments do not provide adequate protection of intellectual property rights through patent and copyright laws.

Laws prohibiting duplication of trade dress or appearance design of products are also lacking in some LDC's. The result is that bogus products having appearances identical to originals are marketed to unsuspecting consumers. Both the consumer and the manufacturer of the original product suffer from this activity.

We believe that a strong intellectual property law is in the best interest of LDC's. Motivation of industry to invest in research and development is facilitated by governments who provide an environment of stability and predictability with regard to industrial and intellectual property laws and the judicial administration of these laws. Where effective laws are absent or where judicial interpretations of laws tend to forgive infringement of intellectual property rights, the confidence that is necessary for industry investment simply does not exist.

Accordingly, we think that it is fair and reasonable to encourage enactment and enforcement of strong intellectual property laws through the GSP, and we support the proposed amendment and request its adoption.

Thank you again for the opportunity to provide this comment. Please add this statement to the hearing record.

Very truly yours,

J. Jancin Jr.

J. Jancin, Jr.
Patent Counsel - Washington

JJ:mmf

cc: Honorable William V. Roth, Jr.
Honorable John Heinz
Honorable John H. Chafee
Honorable William L. Armstrong
Honorable Charles E. Grassley
Honorable Steven D. Symms
Honorable Bill Bradley
Honorable Daniel P. Moynihan
Honorable George J. Mitchell
Honorable Max Baucus
Honorable Spark M. Matsunaga
Honorable Lloyd Bentsen

CONFÉRENCE DES NATIONS UNIES
SUR LE COMMERCE ET LE DÉVELOPPEMENT

BUREAU DU SECRÉTAIRE GÉNÉRAL
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RÉF. N°:
(à rappeler dans la réponse)

10 February 1984

Dear Mr. De Arment,

On behalf of the Secretary-General of UNCTAD and in accordance with the Senate Press Release of 9 January 1984, I have the honour to submit the attached statement for inclusion in the printed record of the Senate hearings on the renewal of the United States' Generalized System of Preferences.

Accept, Sir, the assurances of my highest consideration.

J. Pronk
Deputy Secretary-General
of UNCTAD

Mr. Roderick A. De Arment,
Chief Counsel, Committee on Finance,
Room SD-219,
Dirksen Senate Office Building,
WASHINGTON, D.C. 20510,
United States of America.

# Submission by the United Nations Conference on Trade and Development (UNCTAD) to the United States Senate Finance Sub-Committee on International Trade regarding the "Generalized System of Preferences Renewal Act of 1983"

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## Summary

The secretariat of the United Nations Conference on Trade and Development welcomes the opportunity to present its views concerning the renewal of the United States scheme of generalized preferences. The renewal provides a unique opportunity for improving some of its basic elements. Yet the improvement in the product coverage, which is of vital importance, is ignored completely in the bill before Congress. Countries at incipient levels of industrialization rely on exports of labour-intensive products such as textiles and footwear which will continue to be affected by mandatory exclusions. Given the existence of a large number of "voluntary" export restraints agreements which the United States has negotiated with textile-exporting countries, there seems to be little justification for excluding such products from preferential eligibility. Similarly developing countries would benefit immensely if agricultural products of export interest to these countries were also included in the scheme. Out of $8.4 billion of preferential imports under the scheme, and not counting sugar which is severely affected by competitive need limitations, agriculture accounts for less than $400 million.

Expansion of the product coverage along these lines would bring about the desired widespread distribution of benefits among the beneficiaries of the scheme. Competitive need limitations and discretionary graduation measures have served to penalize those in a position to take advantage of the scheme rather than to bring about a wider distribution of benefits. Evidence shows that without the tariff advantage the beneficiaries affected by such limitations cannot operate on the same competitive footing as suppliers from developed countries. The bill proposal to set lower competitive limits cannot fail to dilute even further the scheme's benefits. There is a danger that the other preference-giving countries will also introduce similar restricive measures in order not to bear a disproportionate burden in providing preferential access. The loss in export earnings which will result from such measures will not only add to

the economic and social difficulties of developing countries but will also translate into reduced imports from developed countries, and in particular, from the United States because of the greater significance of developing country markets for United States exports. In this situation restrictions on preferences through further graduation measures are not only incongruous but also self-defeating. Both the development needs of developing countries and the mutuality of interests are cogent arguments for doing away with all forms of graduation measures or at least for raising competitive need limitations.

The legitimate protection of domestic interests in the United States against injury or threat of injury which might be caused by expansion of preferential imports can be ensured by resorting to Article XIX of the General Agreement on Tariffs and Trade.

The bill makes continued preferential access in the United States contingent upon developing countries' commitment to reduce protection of their markets. Such policy would be at complete variance with the agreements reached in international organizations. In effec, the GSP has been designed to assist developing countries in achieving development objectives, and its use for other purposes would clearly be incompatible with the system's basic principles of non-reciprocity and non-discrimination. In any case, developing countries are already in heavy deficit *vis-à-vis* the United States. Moreover, reduced trade barriers in developing countries would not necessarily lead to greater imports by them if nothing is done to enhance their foreign-exchange earnings. Since the bill makes it quite clear that "great weight" would be given to market access considerations for United States exports, the conclusion cannot be avoided that the law would be used as a coercive measure in drawing concessions from the developing countries. For this reason consideration might be given to eliminating this provision from the bill.

The bill should also make possible the long-awaited improvement and simplification of origin rules under the scheme. It should be possible to relax the final destination requirement to bring it into greater conformity with the other schemes. Determination of originating products should be based on a more recognizable factor, namely, import content rather than direct cost of processing which is less readily ascertained. Also thestringency of the value-added requirement would be considerably eased if materials imported from the United States could also be counted as originating products.

The only clearly positive aspect of the bill is the proposed exemption of the least developed countries from the application of the competitive need limits. The law should, however, make it clear that all recognized least developed countries would be granted beneficiary status without exception.

Senator Heinz's proposed amendments to the bill, especially those regarding reduction in the product coverage and the removal of a large number of countries from beneficiary status would virtually eliminate all benefits under the scheme and would have far-reaching implications for the continued existence of the other schemes.

## Renewal of the United States scheme of generalized preferences

The United Nations Conference on Trade and Development (UNCTAD) has been mandated by Governments to deal with all questions relating to the implementation of the generalized system of preferences (GSP). The secretariat of UNCTAD therefore welcomes the opportunity to present its views concerning the renewal of the United States scheme of generalized preferences.

Title V of the Trade Act of 1974 1/ and subsequent executive orders constitute the United States scheme of generalized preferences which is due to expire on 3 January 1985. On 25 July 1983, the Administration made proposals to Congress regarding the extension of the scheme and changes therein. On 1 August 1983 a bill embodying the Administration's proposed changes was submitted to Congress by Senator John Danforth, Chairman of the Sub-Committee on Trade of the Senate Finance Committee. The bill, known as

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1/ For the text of the Trade Act of 1974, see Public Law 93-618, 93rd Congress, H.R. 10710, 3 January 1975.

the "Generalized System of Preferences Renewal Act of 1983", [1] took the form of amendments to the Trade Act of 1974.

As early as 1980, the preference-giving countries had agreed that the GSP should continue beyond the initial ten-year period. Those countries that had implemented the system at an early date have already renewed their schemes. The United States, whose scheme entered into effect on 3 January 1975, has thus begun the legislative process of renewal and while there was never any doubt about the United States' commitment to extend the scheme, there was always apprehension that its nature and scope migh undergo serious changes. The present bill, which calls for extending the duration of the scheme for another ten years, maintains all existing statutory provisions except for three changes in the operation of the competitive need criteria. One provision of the bill would exempt the least developed countries from the competitive need limits. The second would make it possible to introduce more explicit graduation through the establishment of lower competitive need limits for beneficiaries that have demonstated a sufficient degree of competitiveness relative to other beneficiaries. However, imposition of these lower limits may be waived if it can be determined that the beneficiary country concerned provides reasonable and equitable access to its markets. This third provision, which would in effect introduce an element of reciprocity under the United States scheme, would be unique among all other schemes and would have far-reaching implications for the character of the GSP.

Amendments to this bill proposed by Senator Heinz would restrict the beneficiary status to countries having a per capita GNP of less than $680. The other countries having a per capita GNP of less than $4,000 would be designated upon meeting certain conditions. First, such a country cannot fall under any of the section 502 (b) (1-7) restrictions of the current Trade Act. Second, the country must have signed the Subsidies Code or have accepted equivalent obligations in bilateral agreement with the United States. Finally, the country must have entered into a bilateral agreement with the United States to eliminate non-tariff barriers to trade in goods and services

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1/ United States Senate, 98th Congress, 1st Session. "A Bill to amend Trade Act of 1974 to renew the authority for the operation of the Generalized System of Preferences, and for other purposes" S.1718.

and to investment. The amendments will also call for the addition of the following products to the list of exceptions under the scheme: footwear, handbags, luggage, flat goods, work gloves and leather wearing apparel. Finally, the amendments will eliminate the authority of the President to waive the competitive need limits.

A. Explicit graduation

Under the competitive need limits a beneficiary country loses eligibility for preferential treatment for a particular product if that country's shipments of that product in the preceding calendar year exceeded 50 per cent of the value of total United States' imports of the product or a specified amount ($53.3 million for 1982), which grows in proportion to the previous year's growth of the gross national product (GNP). However, the 50 per cent limit does not apply in cases where a like or directly competitive product is not produced in the United States. Also the 50 per cent rule may be waived under the *de minimis* provision in cases where United States' imports of a product amount to less than $1 million (adjusted annually to reflect changes in GNP). In addition to automatic exclusions through the competitive need criteria a beneficiary country may lose preferential treatment on a particular product through discretionary graduation.

The competitive need limitations "are designed to reserve the benefits of the programme for less competitive producers. They also serve as some measure of protection for US producers of like or directly competitive products". 1/ Such product-specific graduation is considered ideal for wider distribution of benefits among beneficiaries because it does not deny GSP opportuniies to the many developed sectors in the United States simply because a few advanced sectors in developing countries have succeeded in penetrating the United States market. 2/. Discretionary graduation is

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1/ United States of America, Report of the Committee on Ways and Means, House of Representatives, to Accompany H.R. 10710 (Washington, D.C., U.S, Government Printing Office), House Report No. 93-571 (October 1973), p. 23.

2/ *Ibid*. p. 30.

intended to promote the phasing out of beneficiary countries from the scheme's benefits in products where they have demonstrated competitiveness and also to promote a shift of benefits to the less advanced and less competitive developing countries.

In 1983, competitive need exclusions (in terms of 1982 trade) amounted to $6.4 billion or about 36.6 per cent of imports of products eligible for preferential treatment. In that year 28 beneficiaries exceeded the competitive need limits and for many of them more than 50 per cent of their eligible trade has been excluded from preferential treatment. (See annex I.) These country exclusions have affected not only some economically advanced developing counries but also quite a number of less developed developing countries, including two least developed countries.

Discretionary graduation began to be applied in 1981. It is a country-specific measure and involves a consideration of three factors, namely, the beneficiary's level of economic development, its competitive position in the product concerned and the overall economic interest of the United States. Since implementation, this type of gaduation has affected $1.9 billion of GSP eligible trade from seven beneficiaries, namely, Taiwan Province of China, Republic of Korea, Hong Kong, Brazil, Mexico, Singapore and Israel.

The impact of the limitation under both the competitive need and discretionary criteria, available up to now in a sketchy form, has been fully documented in a recent study by the Korean Traders' Association (KTA). 1/ Beneficiaries' trade in products affected by such exclusions have been analysed over a period of time to determine the frequency with which their import share in the United States' market declined following loss of eligibility, the amount of that decline and the direction of any diversion in trade to other suppliers. The study found that exclusion of any one of the major beneficiaries with respect to a particular product resulted in a major shift of trade to the developed countries, i.e. to non-beneficiary

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1/ See "Submission of views by the Korean Traders' Association (KTA) in the matter of renewal of the US Generalized System of Preferences (GSP)", to the Trade Policy Staff Committee, 5 April 1983.

suppliers. The major beneficiaries (other than the one affected by the exclusion) increased their market share but to a lesser extent while the gains recorded by the other beneficiaries were far fewer and considerably smaller in magnitude.

The fact that the trade shifted mainly in favour of developed countries seems to confirm the uncompetitive nature of the major beneficiary exporters in many of the products affected by the exclusion. The beneficiaries' inability to maintain their market share against non-beneficiaries indicates that without the tariff advantage they could not operate on the same competitive footing as those suppliers. The less advanced beneficiaries cannot be expected to capitalize on the loss of eligibility by the major beneficiaries for two reasons. One, their low level of industrialization would not permit them to switch to immediate production of sophisticated products and, second, the products in which they have the greatest potential (textiles, footwear, etc.) are excluded from the scheme. Unless a drastic improvement in the product coverage is made, the effect of graduation measures will continue to penalize those in a position to take advantage of the scheme rather than to provide more opportunities for the less advanced beneficiaries.

On the contrary, the bill maintains the mandatory exclusions in the product coverage and moreover directs the President to impose lower competitive need limits on those beneficiaries that have demonstrated a sufficient degree of competitiveness relative to other beneficiaries with respect to an eligible product. For this purpose, the President would conduct a general product review within two years after passage of the law. The reduced limits would be 25 per cent and $25 million, also adjusted to reflect changes in GNP, and would be applied not later than 90 days after the close of the calendar year in question. The law therefore seems meant to codify existing administrative practices but it will have the dubious quality of making the retrenchment of the scheme more predictable. Country competitiveness would be determined following a "general product review" and exclusion of the country concerned from preferential treatment would be made as soon as the lower limits have been reached.

It is obvious therefore that the rationale of competitivity and equitable distribution of benefits among beneficiaires does not stand up to analysis. The rationale of protection should not give rise to any controversy provided the generally accepted standard of serious injury is applied before safeguard action is taken. The legitimate protection of domestic interests against injury or threat of injury which might be caused by expansion of preferential imports can be ensured by resorting to Article XIX of the GATT. Without a credible test of injury, all restricive actions would remain arbitrary and, moreover, counterproductive because United States' exports would be the first to suffer if developing countries' import capacity continues to be unnecessarily stifled. Both the development needs of developing countries and the mutuality of interests are cogent arguments for doing away with all forms of graduation measures or at least for raising the competitive need limitations.

## B. Reasonable access to bereficiary markets

The bill, however, provides that the President may waive the application of competitive need limits on particular products on the basis of several considerations, including the level of economic development of the beneficiary country concerned, the anticipated impact on United States' producers and, more important, the extent to which that beneficiary has assured the United States of reasonable and equitable access to its own market. The bill makes it clear that "great weight will be given to this market access consideration. Since the waiver would apply with respect to the automatic as well as the reduced limits, it has been perceived as a possible liberalization of benefits under the scheme. In fact, the United States considers that significant additional market opportunities exist for United States' exports in many key developing country markets and such liberalization measures would help induce beneficiaries to also liberalize their markets in a manner commensurate with their level of development. For this purpose, the Administration will consider factors such as tariff and non-tariff barriers to trade in goods and services applied by the beneficiary country, the perfomance requirements with respect to United States investment and the prevailing policy with regard to the protection of intellectual property rights in that beneficiary country. The waiver would remain in effect only as long as the beneficiary country concerned has maintained the market liberalization in favour of the United States.

Strict interpretation of the bill would clearly set a precedent for making the continued favourable access to developed country markets contingent upon developing countries' commitment to reduce the protection of their markets. In other words, developing countries can gain influence on GSP benefits and safeguards only if they agree to give reciprocal concessions. Up to now graduation has been passive in the sense that when a beneficiary country has been found to be competitive in a particular product, that country simply lost the GSP benefit on that product. Under the bill graduation would become an active policy for drawing concessions from developing counties. Such a policy would be at complete variance with the agreements reached in UNCTAD, for the GSP has been designed to assist developing countries in achieving their development objectives, and its use for other purposes would clearly be incompatible with the system's basic principles of non-reciprocity and non-discrimination. This, however, would not be the first time that conditions of eligibility for preferences have been set under the United States' scheme. In 1979, for instance, the President of the United States was empowered to grant beneficiary status to those OPEC countries that had entered into bilateral product-specific trade agreements with the United States. Three countries were subsequently designated as beneficiary countries pursuant to this provision. The new law would, therefore, open the way for the United States to seek bilateral concessions on a much wider basis. In general, reduced trade barriers in developing countries would not necessarily lead to greater imports, since their total volume of imports is limited by foreign exchange availabilities which are in turn heavily dependent on better access for their products. Insistence by the United States on reciprocity would thus lead merely to a change in the composition of their imports from essential to non-essential goods in a manner which may detract from their development efforts and ultimately from their long run import capacity.

It is possible , however, to imagine that the concept of reasonable access would be given a liberal as opposed to strict interpretation. One could argue that this is only one of eight other factors that must be taken into account and as such it is unlikely that that factor alone would be critical in deciding whether or not to grant the waiver. Reasonable access may not come into play at all if the country concerned is not sufficiently competitive in the United States in the absence of the tariff advantage. More important, this concept may be seen in static rather than dynamic terms whereby a comparison needs to be made between the level of mutual access achieved by the United States, on the one hand, and each beneficiary, on the other. In terms of 1980 trade, the beneficiaries of the scheme had a net trade deficit of $24 billion vis-à-vis the United States and the corresponding trade deficit of beneficiaries affected by competitive need limitations in 1982 amounted to $18.7 billion (annex II). A static approach to reasonable access should, therefore, make beneficiaries that are disproportionately affected by competitive need limitations primary candidates for the waiver. Uncertainty would arise as to which of the two approaches would prevail, and for this reason consideration might be given to eliminating the waiver provision from the bill, unless it is clearly specified that this provision would not be used as a coercive measure in drawing concessions from developing countries. Elimination of the waiver provision from Senator Danforth's bill is desirable because it presupposes reciprocity. The Heinz amendments also call for the elimination of this provision but would make reciprocity an integral part of the United States' law for a large number of developing countries. For this reason, it is even more objectionable.

### C. Least developed countries

The competitive need limits would not apply to any beneficiary country which the President deems to be a least developed beneficiary country. These countries are not specified in the bill and the President has been directed to make such determination within six months of the date of enactment of the law.

Three of the beneficiary least developed countries have in some cases been excluded from preferential treatment on eligible products. 1/ With the introduction of the de minimis provision, the limitations continue to affect only one of the least developed countries. Under the bill, however, the President would have the power to designate additional countries as least developed beneficiary countries. At present 36 developing countries

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1/ Bangladesh, Botswana and Haiti

have been classified by the United Nations as least developed countries. Four of these countries are, however, excluded from the United States' beneficiary list. For purposes of the GSP, the lists vary from scheme to scheme; however, Japan recognizes 34 and the EEC 38 as least developed countries. Exemption of least developed beneficiary countries from the competitive need limitations would at present have litle practical effect; however, combined with the possibility that the list of such countries could be expanded, this measure should help to create a favourable climate for investments in these countries.

### D. Mandatory provisions

The beneficiary countries, which attach great importance to the United States scheme in view to that country's size and importance, had great expectations that the renewal of the scheme would provide a unique opportunity for improving some of its basic elements. Numerous recommendations to this effect have been made in UNCTAD and in many other international forums as well as from capital to capital. It is important, therefore, to examine the areas in which the bill could be further modified to better reflect the wishes of beneficiary countries.

#### (a) Product coverage

Imports which have actually received preferential treatment in the markets of OECD preference-giving countries amounted to more than $28 billion in 1982. The United States alone accounted for a little less than a third of this trade. The amendments to the bill calling for further contraction in the product coverage and for a drastic reduction in the list of beneficiaries will have the effect of reducing United States' preferential imports from $8.4 billion to less than $1 billion in terms of 1982 trade. Further improvement of benefits rather than contraction is what is needed to preserve the scheme as an effective instrument of international economic co-operation. If, however, graduation measures and competitive need limitations remain a central feature of the scheme, the process of improvement is bound to suffer. In effect GSP eligible products fell from 31 per cent of dutiable imports in 1976 to 26.4 per cent in 1982 while the effective coverage, after account is taken of competitive need exclusions, fell from 22 to 16.8 per cent in the two periods (see annex III). This trend may have serious consequences on the maintenance of equitable burden sharing of preferential treatment under the GSP. It is of course difficult if not impossible to quantify such burden sharing in view of the wide diversity of schemes with regard to product coverage, extent of tariff cuts, beneficiary lists, safeguards and rules of origin. With the proliferation of restrictive measures, however, any one preference-giving country is bound to feel that it shoulders more than its proper share and thus to be tempted to take similar action with serious consequences for overall GSP benefits. The loss in export earnings resulting from such restrictive measures would not only aggravate the economic and social difficulties faced by developing countries but would also translate into reduced imports from developed countries and in particular the United States because of the greater significance of developing country markets for United States' exports.

The fact that no amendment has been proposed with regard to the expansion of the product coverage under the bill is a matter of grave concern. The categories of products excluded from eligibility for preferential treatment under section 503(c)(1) of the Trade Act of 1974 would therefore remain in effect. These mandatory exclusions account for about three-quarters of dutiable imports (see annex IV). The fact that the tariff averages for those excluded products are generally quite high may be an indication of import sensitivity. However, the sensitivity is not the same for all excluded products and, more importantly, it cannot necessarily be attributed to imports from developing countries. Given the existence of a large number of "voluntary export agreements" which the United States has negotiated with textile exporting countries, there seems to be little justification for excluding textiles from the list of articles eligible for preferential treatment. It should also be possible to apply a liberal policy with respect to those excluded products with relatively low duties.

The President's report on the first five-year operation of the scheme indicated that a special effort would henceforth be made to include products of special export interest to low-income beneficiaries, including handicrafts. Countries at incipient levels of industrialization rely on exports of textiles and footwear that are, however, mandatorily excluded from the scheme. Moreover, the inclusion of all products defined as "handicrafts" would be of particular interest to those low-income countries. Under current provisions introduced recently, duty-free treatment has been granted to only five certified handloom and folklore textile products. Similarly, these countries would benefit immensely if agricultural products of export interest to them were also included in the scheme. Out of the $8.4 billion of preferential imports, and not counting sugar which is severely affected by the competitive need limitations, agriculture accounted for less than $400 million.

The petition procedure under the scheme has a direct bearing on the product coverage. Thus, any interested party may submit a request for addition to, or withdrawal from, the list of eligible articles. The request must be suppported by a detailed economic analysis and must include, to the extent possible, information on United States and developing country production, employment, costs and profits. In view of the difficulties faced by developing country firms in securing detailed statistical data, it has been suggested that the technical data should be reduced to the really indispensable minimum. While the reviewing procedure for addition of new products should continue to be held once a year, the withdrawal procedure should be held only after an extended lapse of time, say every five years. The mere indication that a product is under investigation for possible withdrawal can have a harmful effect on trade in view of the uncertainty created for both the exporter and the importer as to the tariff situation that will prevail at the time of entry of the product into the United States.

### (b) Rules of origin

No amendment has been proposed in the bill with respect to origin rules. One of the conditions governing eligibility for preferential treatment in the United States of America is that goods must be imported from the beneficiary country into the United States direct. An important provision of this direct consignment rule is that the shipping documents must show the United States as the final destination. This provision places beneficiaries at a disadvantage in cases where they have neither the experience nor the marketing facilities to sell the goods direct and on favourable terms. Elimination of the final destination requirement should therefore allow these countries to continue to avail themselves of the distribution system existing in the main sea ports or trading centres. The restrictiveness of the direct consignment rule would also be relaxed if United States origin requirements made provision for the issuance of provisional certificates of origin and for exhibitions and fairs.

Under United States arrangements for preferential imports of products from its insular possessions and of automotive products from Canada, as well as under the Canadian GSP rules of origin, transformation is considered to be substantial if the value of imported materials used in the manufacture of the exported product does not exceed a certain percentage of the appraised value or the ex-factory price of that product. Under these rules, therefore, the key element in determining whether or not the product originates in the beneficiary country, and consequently qualifies for preferential treatment, would in general depend on a recognizable factor, namely, imported materials, for which c.i.f. or f.o.b. prices are easily available. In constrast to these arangements, the United States GSP scheme bases its determination of originating products on factors that are less readily recognizable, namely, cost of domestic materials plus cost of direct processing. An element of uncertainty therefore arises with regard to eligibility of goods for preferences. Moreover, the scope for using imported materials is to a certain extent reduced, since indirect domestic value added (general expenses and profit) is not counted towards the 35 per cent requirement of domestic materials, and direct processing generally results in much higher value added than that which would result from the 50 per cent requirement of import content applied in other instances. One means of improving the percentage criterion would be for the United States to base the determination of the percentage of value added on import content rather than on cost of materials and direct cost of processing. In either case the stringency of the percentage criterion would be considerably eased if materials imported from the United States and incorporated in the product exported to that country were considered as originating in the exporting country.

The appraised value of a product is established by United States customs officials on the basis of complex legislation and regulations. Since this appraised value is known only upon entry into the United States, the exporter will not know with certainty whether or not the product qualifies for preferential treatment until it has actually cleared customs. This additional element of uncertainty would be removed if the value of the finished product could be established on the basis of data wholly available in the country of exports such as factory or f.o.b. price.

## Annex I

### Trade and country exclusion from preferential treatment under the United States' scheme because competitive need limits were exceeded in 1982

(value in thousands of US $)

| Exporting beneficiaries | Covered by the scheme | Excluded by the competitive need criteria | Effectively covered by the scheme | % share (3) / (2) |
|---|---|---|---|---|
| (1) | (2) | (3) | (4) | (5) |
| Venezuela* | 95 865.9 | 61 007.7 | 46 561.7 | 63.6 |
| Chile | 391 901.9 | 234 379.6 | 149 997.5 | 59.8 |
| Hong Kong | 2 473 050.4 | 1 417 478.1 | 794 891.4 | 57.3 |
| Colombia | 154 571.4 | 87 414.7 | 63 453.6 | 56.6 |
| Dominican Republic | 210 017.4 | 113 345.4 | 84 304.5 | 54.0 |
| Ghana | 289 420.8 | 155 525.6 | 34 804.5 | 53.7 |
| Mexico | 2 950 344.1 | 1 534 033.5 | 599 494.9 | 52.0 |
| Taiwan Province of China | 4 279 907.5 | 1 672 522.5 | 2 333 387.8 | 39.1 |
| Bangladesh* | 2 543.7 | 938.1 | 2 130.9 | 36.9 |
| Argentina | 329 085.9 | 118 820.8 | 173 224.3 | 36.1 |
| Turkey | 15 518.4 | 5 463.8 | 9 390.0 | 35.2 |
| Yugoslavia | 188 330.7 | 59 737.2 | 179 479.1 | 31.7 |
| Philippines | 285 894.7 | 86 100.6 | 137 454.6 | 30.1 |
| Korea (Republic of) | 1 719 655.1 | 453 858.6 | 1 089 231.8 | 26.4 |
| Haiti | 139 611.2 | 35 753.8 | 39 285.2 | 25.6 |
| Egypt* | 3 389.6 | 835.4 | 3 001.4 | 24.6 |
| Brazil | 828 795.5 | 189 170.8 | 563 875.1 | 22.8 |
| Singapore | 794 677.3 | 110 980.0 | 429 378.9 | 14.0 |
| Peru | 136 429.5 | 15 677.2 | 103 982.0 | 11.5 |
| Thailand | 202 713.2 | 17 627.9 | 161 841.2 | 8.7 |
| India | 227 033.2 | 18 562.4 | 187 534.9 | 8.2 |
| Barbados | 24 746.1 | 1 561.5 | 8 545.6 | 6.3 |
| Portugal | 137 290.3 | 8 046.9 | 102 632.9 | 5.9 |
| Honduras | 61 903.4 | 3 443.1 | 49 927.8 | 5.6 |
| Costa Rica | 46 779.8 | 2 585.9 | 36 581.5 | 5.5 |
| Bolivia | 32 659.7 | 878.1 | 28 497.2 | 2.7 |
| Macao* | 77 341.4 | 1 125.3 | 71 563.1 | 1.5 |
| Israel | 449 859.7 | 1 827.2 | 407 196.6 | 0.4 |

| (1) | (2) | (3) | (4) | (5) |
|---|---|---|---|---|
|  | in millions dollars |  |  |  |
| Total listed | 16 549.3 | 6 347.7 | 7 845.1 | 38.4 |
| Beneficiaries not affected | 977.3 | — | 576.9 | — |
| All beneficiaries | 17 526.6 | 6 347.7 | 8 422.0 | 36.2 |

Sources: US statistical trade data sources (1982).

* For those countries, figures shown in column (3) are taken from US Import Weekly vol. 8, No.1 (6 April 1983).

## Annex II

### United States' imports from and exports to developing beneficiary countries members of the Group of 77 affected by competitive need exclusions under the 1982 United States' scheme of generalized preferences (1980 trade in million US $)

| Beneficiary countries | Total imports (excl. petroleum) | Total exports (excl. petroleum) | Beneficiaries' trade balance with the United States |
|---|---|---|---|
| All beneficiares | 35 014 | 59 116 | - 24 102 |
| Argentina | 685 | 2 376 | - 1 691 |
| Barbados | 99 | 133 | - 34 |
| Bolivia | 176 | 167 | + 9 |
| Brazil | 3 954 | 4 075 | - 121 |
| Costa Rica | 405 | 688 | - 283 |
| Chile | 559 | 1 300 | - 741 |
| Colombia | 1 285 | 1 693 | - 408 |
| Dominican Republic | 827 | 779 | + 48 |
| Ghana | 169 | 110 | + 59 |
| Guatemala | 445 | 538 | - 93 |
| Haiti | 264 | 303 | - 39 |
| Honduras | 475 | 369 | + 106 |
| India | 1 181 | 1 650 | - 469 |
| Korea, Republic of | 4 432 | 4 579 | - 147 |
| Malaysia | 1 797 | 1 287 | + 510a/ |
| Mexico | 6 056 | 14 539 | - 8 483 |
| Netherlands Antilles | 44 | 433 | - 389 |
| Panama | 337 | 666 | - 329 |
| Peru | 855 | 1 153 | - 298 |
| Philippines | 1 913 | 1 971 | - 58 |
| Romania | 295 | 639 | - 344 |
| Singapore | 1 889 | 2 939 | - 1 050 |
| Swaziland | - | - | - |
| Thailand | 866 | 1 222 | - 356 |
| Venezuela | 270 | 4 450 | - 4 180 |
| Zambia | 205 | 99 | + 106 |
| TOTAL LISTED | 29 483 | 48 158 | -18 675 |

Sources: United Nations, Statistical Papers, Series D, vol. XXX, No 1-17 for 1980.

a/ In 1982 Korean exports to the United States of $5.6 billion were nearly matched by United States exports to the Republic of Korea of $5.5 billion.

## Annex III

OECD imports from GSP beneficiaries 1976-1982
(billion $)

| Category of imports | 1982 |  | 1980 | 1979 | 1978 | 1977 | 1976 |  |
|---|---|---|---|---|---|---|---|---|
|  | OECD | of which USA | USA | USA | USA | USA | OECD | of which USA |
| A. Dutiable | 133.4 (100) | 65.9 (100) | 54 (100) | 38.2 (100) | 31.4 (100) | 26 (100) | 78 (100) | 21 (100) |
| B. GSP products | 62.8 (47.0) | 17.4 (26.4) | 14.3 ( 26.5) | 11.7 (31) | 9.7 (31) | 7.7(30) | 26 (33) | 6.5(31) |
| C. Minus competitive need exclusions | - | 6.3 (9.6) | 5.6 (10.4) | 4.0 (10.4) | 3.2 (10) | 2.8(11) | - | 1.9(9) |
| D. Effective GSP coverage | - | 11.1 (16.8) | 8.7 (16.1) | 7.8 (20) | 6.5 (21) | 4.9(19) | - | 4.6(22) |
| E. Received GSP | 28.2 (21.1) | 8.4 (12.7) | 7.3 (13.6) | 6.3 (16.5) | 5.2 (16.5) | 3.9(15) | 10.5(13) | 3.2(15) |
| F. Effective GSP Utilization[E/D] | - | (75.7) | (84) | (79.9) | (80) |  |  | (70) |
| G. Standard utilization rate[E/B] | (44.9) | (48.3) | (51.1) | (53.5) | (53.4) | (51) | (40) | (49) |
| H. Exclusions, other reasons |  | 2.7 | 1.4 | 1.6 | 1.3 | 1.0 |  | 1.4 |

Source: UNCTAD secretariat.

## Annex IV

### United States trade in and tariffs on major products excluded from the scheme

| PRODUCTS | Unweighted average MFN tariff - 1979 (percentages) | Total imports from developing countries (millions of dollars) 1980 |
|---|---|---|
| (1) | (2) | (3) |
| Products excluded by law | | |
| 1. Textile and apparel articles which are subject to textile agreements | | |
| - Textiles | (15.4 | ( 760.4 |
| - Wearing apparels | 20.4(19.0 | 5 642.3(4 823.3 |
| - Schedule 7 items | (26.9 | ( 58.2 |
| 2. Watches | 16.8 | 401.2 |
| 3. Import sensitive elctronic articles | 7.6 | 7 209.3 |
| 4. Import sensitive steel articles | 6.5 | 433.3 |
| 5. Footwear articles | 13.0 | 1 353.8 |
| 6. Import sensitive semi-manufactures and manufactured glass products | 11.9 | 130.9 |
| 7. Petroleum products | 2.3 | 25 635.5 |
| Other major exclusions of which: | | |
| - Fluorspar | 7.8 | 51.5 |
| - Unwrought zinc | 10.5 | 26.2 |
| - Unwrought aluminium | 1.5 | 119.0 |
| - Unwrought lead | 5.2 | 31.1 |
| - Tungsten ore | 3.4 | 44.2 |
| Total trade excluded | | 41 078.3 |

Source: UNCTAD secretariat.

# TESTIMONY
# ON THE
# U.S. GENERALIZED SYSTEM OF PREFERENCES
# BEFORE THE
# SUBCOMMITTEE ON INTERNATIONAL TRADE
# OF THE
# COMMITTEE ON FINANCE
# UNITED STATES SENATE

BY

THE AMERICAN CHAMBER OF COMMERCE OF MEXICO

FEBRUARY 9, 1984

In response to the call by the Senate Subcommittee on International Trade for public comments on renewal of the Generalized System of Preferences (GSP), the American Chamber of Commerce of Mexico is anxious to make its views known. The thrust of these comments is two-fold:

1) To express the Chamber's support for the continuance of the GSP, and

2) To caution against either more stringent "graduation" criteria than is now contained in the program or the inclusion of "reciprocity" provisions in new GSP legislation.

Since its founding in 1917, the American Chamber of Commerce of Mexico, A.C. has had as a primary objective the promotion of increased trade and investment between the United States and Mexico. AmCham Mexico's corporate membership of 2,900 includes 90% of the direct U.S. investment in the country as well as over 1,500 Mexican companies who trade with the United States. Our support for the GSP and for Mexico's continued eligibility is based on the conviction that the system operates to the benefit of both the United States and Mexico.

The GSP has proven itself to be an effective instrument for aiding developing countries to establish their goods in the U.S. market. For a minimal investment (the loss of revenue to the U.S. Treasury from otherwise dutiable items), GSP yields tremendous benefits to the United States.

Chief among these is that by enabling developing countries to compete in the U.S. import market, they earn foreign exchange with which to purchase U.S. products. This is particularly true in the case of Mexico, whose importance as a U.S. trade partner should not be underestimated. Mexico retained its position as the third greatest buyer of U.S. goods in 1982, despite the economic crisis which hit in the final half of that year.

By mid-1983, however Mexico's acute foreign currency shortage forced it into the number four position -- and prompted a U.S. trade deficit with Mexico of $4.35 billion dollar for the January-July period (please see table). The U.S. remained by far the largest market for Mexican goods throughout.

## U.S. TRADE WITH MEXICO
(in millions of dollars)

| YEAR | U.S. EXPORTS | U.S. IMPORTS | BALANCE |
|---|---|---|---|
| 1972 | 1,982 | 1,633 | + 349 |
| 1973 | 2,937 | 2,306 | + 631 |
| 1974 | 4,856 | 3,391 | + 1,465 |
| 1975 | 5,160 | 3,060 | + 2,100 |
| 1976 | 5,002 | 3,599 | + 1,403 |
| 1977 | 4,822 | 4,694 | + 128 |
| 1978 | 6,680 | 6,196 | + 484 |
| 1979 | 9,847 | 8,996 | + 851 |
| 1980 | 15,145 | 12,520 | + 2,625 |
| 1981 | 17,789 | 13,765 | + 4,024 |
| 1982 | 11,817 | 15,566 | - 3,749 |
| 1983 (Jan-July) | 5,157 | 9,509 | - 4,352 |

Second, the foreign exchange that Mexico earns from its exports to the United States enables it to service its approximately $85 billion dollar foreign debt (principal payments alone on the debt are programmed to rise to over $9.5 billion by 1985).[7] The country owes over $25 billion dollars of its overall total to U.S. commercial banks, some of which would be severely damaged if Mexico were unable to make good on its obligations.

Third, the U.S. economy benefits from GSP since cheaper imports have a salutory effect in stimulating competition and restraining inflation. Moreover, cheaper imports of intermediate goods improve the competitive posture of final U.S. products both in its own market and abroad. We would not overemphasize the importance of these imports in view of their small percentage of overall U.S. imports. On the other hand, there is little evidence that GSP has injured specific U.S. industrial or agricultural producers.

Finally, GSP contributes to achieving United States foreign policy objectives by strengthening the inter-American system, and particularly by maintaining close commercial and political ties with Mexico. The economic growth which it stimulates will, in the long run, be the most effective antidote to extremist political regimes likely to be hostile to U.S. interests. In the short run, it helps build goodwill in the hemisphere.

The benefits to Mexico from GSP are clear. Other factors being equal, GSP gives imports from beneficiary countries a competitive edge over imports from other, non-GSP competitors. While the margin of preference GSP provides may be small, it has been important in enabling nascent industrial sectors of Mexicoto compete in the U.S. market. We believe many Mexican exporters of manufactured goods have benefitted from such a GSP "boost." By encouraging industrialization, GSP contributes to economic growth and political stability.

Also, the philosophic importance of the Generalized System of Preference should not be understated, as, particularly in the case of Mexico, it effectively counters any sweeping characterization of U.S. trade policy as being purely protectionist.

GDP certainly won't resolve Mexico's foreign exchange problems. In fact, of the $15.566 billion dollars worth of goods exported by the country to the United States in 1982, on $599 million (a mere 4%) went in under GSP. But the effects of the program on overall investment and industrialization are considerable -- as is its contribution to political stability.

It should be emphasized that GSP, like the preferential systems of other developed nations, simply gives the developing countries a slight head start in the trade race for access to the U.S. market. Unlike foreign assistance programs, it does not "give" anything away to the LDC's.

## Positive Aspects of GSP from a Mexican Perspective

AmCham Mexico would like to compliment some specific aspects of the administration of the program by USTR and the U.S. government interagency committee that oversees the program:

1) The simplicity of the U.S. system makes it easier to use than other countries' systems.

2) The existence of an information center helps Mexicans obtain data and other information necessary to participate in the program as well as to prepare briefs and submissions for periodic GSP product reviews.

3) Support provided by the U.S. Government helps to educate exporters in Mexico about opportunities created by the program.

4) The annual GSP review offers opportunities for all sides to petition for changes in the system. Changes are implemented in an orderly way and on a predictable time schedule.

If GSP were not renewed, it would perhaps be replaced by something else. Such a change would mean re-educating foreign exporters, a major undertaking. GSP has been in place since 1975 and is now becoming fairly widely known. Even with nine years of operation, though, many foreign exporters, because of ignorance of the program, still pay duty on a large amount of GSP-eligible items.

## "Graduation" and "Reciprocity" are Inappropriate for Mexico

The American Chamber believes it is inappropiate to apply to Mexico either more stringent "graduation" criteria than is now the case or notions of reciprocity.

1) Mexican industrial production remains generally uncompetitive with that from developed, and even certain other developing, countries. Graduation is premature.

2) While some areas of Mexico, particularly in the North, can be considered "industrialized," graduation of the entire country on such a basis would unfairly and unwisely eliminate from eligibility the underdeveloped sections of the nation. Per capita income of Mexico remains far below that of industrialized countries; moreover, its 80.8% inflation rate, chronic currency instability and oppressive balance of payments problems places it squarely in the realm of underdeveloped nations.

3) Mexico has already experienced a disproportionately high amount of graduation under the automatic operation of the competitive need limitation of the program.

4) Mexico is suffering from severe economic difficulties at this time and should not be subjected to further stresses. With oil revenues expected to remain stable or even fall, and with net tourism earnings unlikely to contribute much more than $1 billion dollars per year, non-petroleum exports are the key to the revival of economic health in the country.

In recognition of this, the Mexican government is doing all it can to encourage domestic manufacturers to sell their goods abroad. Most of these items, new to the export market, are definitely not yet fully competitive with the same products produced by developed countries. Thus, Mexico needs the shove that GSP offers to help these products gain a foreign foot-hold.

5) It is counterproductive to both U.S. and Mexican interests to reduce access to the U.S. market through reductions of GSP benefits or to demand increased access to their markets. Reciprocal concessions would drain scarce foreign exchange needed to service existing debts, as would reduced access to the U.S. market.

6) Other industrialized countries have renewed their GSP programs without seeking reciprocal concessions. It would be inconsistent with concepts of international burden sharing for the United States to unilaterally demand them. Moreover, the GATT "exception" for trade preferences to developing countries is based upon the premise that they will be extended on a "non-reciprocal" basis as other countries have done.

7) Since there are no agreed-upon criteria for discretionary graduation, the application of this concept could become a political football and the GSP program could be effectively restructured in ways inconsistent with congressional intent.

The Administration Proposal

Now we turn to some specific aspects of the administration proposal. Overall, we believe it is a creative proposal and offers the possibility for an improvement and expansion of our GSP.

Many laudable objectives for GSP are contained in the bill's statement of purposes but are not included in the operational sections of the bill. These deserve even more emphasis. Accordingly, we propose that the following objectives be incorporated into the operational provisions of the bill, specifically Section 501.

These include:

(a) The necessity to take advantage of the fact that developing countries provide the fastest growing markets for U.S. exports.

(b) The necessity to recognize that a large number of developing countries must generate sufficient foreign exchange earnings to meet international debt obligations; and

(c) The necessity to promote the notion that trade is a more effective development tool than direct foreign aid.

The current proposal contains provisions allowing the President to waive competitive need limits depending on the degree to which the country provides equitable and reasonable access to U.S. imports. In deciding whether to waive the competitive need limits, the President should be directed to give particular weight to such considerations as the foreign exchange situation of the beneficiary country, the bilateral balance of trade with the country, the country's importance as a market for U.S. products, and the effect of the loss of GSP on the competitive position of the country vis-a-vis developed country suppliers and other developing country suppliers at the same level of development.

In addition, the President should also consider the effect of failing to grant a waiver on the competitive position of U.S. industrial users and the price and inflation consequences for U.S. consumers.

In determining whether reasonable and equitable access is being provided, the President should not require a developing country's import regime to be as open as our economy, particularly in view of the current foreign exchange situations of many of these countries. In allocating scarce foreign exchange, these countries should not be forced to choose between their own determination of their priorities and the desire of U.S. producers to sell in their markets.

There is also a provision in the Administration's proposal to reduce the competitive need limit to $25 million and 25% of total imports (from the current $50 million and 50%) for products where a developing country is competitive in the product. We are concerned that without clearly defined guidelines for this determination, this provision may be applied arbitrarily. We recommend it be deleted. If this provision remains in the bill, it should be clearly limited to those cases where such graduation would clearly help a lesser developed country enter the market and not simply favor developed or other advanced developing countries.

The bill provides for a waiver of competitive need limits for the least developed countries. However, there is no definition of what constitutes a least developing country. We recommend a definition be provided that takes into account the ability of a country to compete in the U.S. market.

The Administration proposal does not contain any modification of the current rules of origin provision. By not allowing U.S. inputs to be counted in determining product eligibility, the proposal places U.S. producers and neighboring Latin American countries, particularly Mexico, at a disadvantage. U.S. content should be included in meeting the rules of origin requirements.

Finally, we would like to briefly list some other suggested changes in the Administration proposal:

(a) Increase in the de minimus level for exclusion from the competitive need limit;

(b) Increase product coverage, through designating products of interest to Latin America. There may be cases where products cannot be designated for all GSP beneficiaries but can be designated for a group of countries which includes all of Latin America or which includes lesser developed countries in the hemisphere.

(c) Increase the certainty of GSP concessions by extending the period between product reviews (now done annually); and

(d) Cease the current practice of terminating the eligibility of GSP if, as a result of an injury finding, imports from other areas are deemed to be the cause of injury to U.S. producers.

GSP has made an important contribution to prosperity in Mexico. At this critical time, we should expand, not cut back the benefits of the system. The geopolitical arguments need not be belabored. It is evident that the U.S. has everything to lose from an economically unsound Mexico in terms of reduced U.S. export sales, immigration pressures and increased political instability.

GSP is one small weight on the positive side of the balance of U.S.-Mexico relations. It would be a shame for all concerned to remove that weight, either by eliminating the whole GSP system or by changing it to such an extent that it no longer serves its original purposes.

# STATEMENT OF THE SYNTHETIC ORGANIC CHEMICAL MANUFACTURERS ASSOCIATION REGARDING THE ADMINISTRATION'S PROPOSAL TO RENEW THE GENERALIZED SYSTEM OF PREFERENCES (S. 1718)

This statement is submitted to set forth the views of the Synthetic Organic Chemical Manufacturers Association ("SOCMA") with respect to the Administration's proposal to renew the GSP program. SOCMA is a nonprofit association of producers of organic chemicals, many of whose members are small chemical companies which can be severely impacted by GSP chemical imports. We therefore have a strong interest in the program.

SOCMA endorses the points presented in the testimony delivered by OCITA's representative on January 27, 1984. SOCMA supports the Administration's proposed extension of the GSP system for ten years and the general aim and intent of the Administration's proposed revisions. Two of the proposed revisions, however, are in need of substantial clarification or modification. We also believe the bill should require the development of appropriate criteria for "graduating" products or product sectors from the GSP program when the country exporting those products no longer needs preferential access to the U.S. market to be competitive.

## Deficiencies in the Administration's Proposal

The Administration's proposal would provide the President broad discretion to waive the competitive need limits on all products where he determines such a waiver to be in the national economic interest. As a substitute for the current graduation process, the proposal also permits the President to establish lower competitive need limits for "highly competitive" products following a two year study. Both of these proposals have troubling aspects.

First, the waiver authority appears to grant the Administration extremely broad discretion to remove the only automatic safeguard built into the GSP program - the competitive need limits. We understand that the Administration intends to use this authority in a highly selective manner for goods such as toys and semiconductors which the domestic industry concerned favors receiving duty free access to our market. However, we believe that the language of this provision needs to be tightened up to reflect the limited nature of this waiver authority. In particular the Administration should be directed to give great weight to the advice of the appropriate industry sector advisory committee before proposing any waivers under this grant of authority and he should be precluded from granting such waivers when the affected U.S. industry would be adversely affected.

Second, we do not believe that the proposed lowering of competitive need limits is an adequate remedy for the problems created by highly competitive products. They not only squeeze out products from other less developed countries, in some cases they also have a significant adverse impact on the domestic industry making like products. When a GSP country has developed an industry and become sufficiently competitive in a product area so that it does not need preferential access to the U.S. market to compete, it should be graduated from the GSP program with respect to that product, not given an import quota of 25% of total imports or $25 million plus inflation. For many products [e.g. most organic specialties] that level of imports would be very significant competitively. We therefore urge that the Administration be instructed to graduate products found to be highly competitive. Authority to reduce competitive need limitations as proposed by the Administration should be limited to products that are not "highly competitive" but may become so in the future.

## The Need for Graduation Criteria

While we applaud the concept of a broad two year study of the country-product pairs which should be graduated, there will remain a need during and after the study for a method of graduating products or product sectors of GSP beneficiary countries upon the petition of a domestic industry. The renewal legislation should therefore expressly provide for such a graduation procedure and the development of appropriate graduation criteria.

One problem with the current GSP program, which the Administration proposal does not address, is determining under what conditions the Administration will graduate a particular product. We believe GSP renewal legislation should direct the Administration to publish appropriate graduation criteria. The criteria would be used by the Administration to determine which country-product pairs to graduate during its two year study and to determine whether to grant relief to industry petitioners.

In connection with the development of appropriate graduation criteria, we are concerned about the ambiguity resulting from the requirement on p. 5 lines 16-17 that the President evaluate the level of competitiveness of a product "relative to other beneficiary countries" which produce the same product. That provision leaves uncertain, for example, what the appropriate standard would be in the not uncommon case in which no other beneficiary country produces the same product. More importantly, we believe the competitiveness of the domestic industry must also be considered in determining whether a GSP eligible product is highly competitive.

## Need for Trade Information in Basket-Category Items

Another problem with the existing graduation program that needs to be addressed is the difficulty in obtaining information on import levels of items in basket categories.

Many basket and multiple-product categories in the TSUS, even those at the 7-digit level, contain a large number of articles that account for a significant amount of trade. As a result, the competitive need provisions designed to limit GSP applicability are often effectively bypassed. Moreover, because of lack of data on imports of individual articles entered in basket or multiple-product categories, it is difficult for the domestic industry to petition for graduation of an article in such a category.

To deal with this problem, the GSP program should provide a method of "lining out" significant individual articles from basket or multiple-product categories in order to permit an assessment of whether GSP treatment should be withdrawn from some of those articles. Upon the request of a representative of an interested domestic industry, the President should be required to "line out" of a basket or multiple-product category, and to give a separate 7-digit TSUS numerical designation to, any article in that category unless the President finds that (i) the imports of that article from any beneficiary country do not exceed 25 percent of the (revised) "cap amount" or (ii) the imports of that article from all beneficiary countries do not account for more than 25 percent of the total imports for the entire basket or multiple-product category.

## Conclusion

In summary, SOCMA agrees with the general aim of extending the GSP program but at the same time believes the renewal legislation should limit rather than expand the Administration's discretion to grant GSP treatment to products that do not need such preferential access to the U.S. market. We therefore believe competitive need waiver authority should be quite limited and that highly competitive products which meet published criteria should be graduated from the program. Subject to those important conditions, we favor renewal of the GSP program.

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WRITTEN STATEMENT
BY
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BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE

UNITED STATES SENATE

ON
RENEWAL OF THE UNITED STATES
GENERALIZED SYSTEM OF PREFERENCES

JANUARY 27, 1984

I am submitting a written statement to indicate my support for continued GSP benefits for Israel.

Israel Products, Inc. is a U.S. company importing food, confectionary and giftware items from Israel. We have been operating in the United States for over 33 years. We sell only Israeli products through local distributors throughout the United States. Many of the food items we sell are specialty items made kosher for Jewish Americans.

We employ between 10 and 12 individuals in New York. Although we do not employ many workers, we buy from Israeli companies, such as Elite, Osem, Pri Taim and Assis, that employ thousands of workers in Israel. Our annual sales are about US$4 million, the major part of which is GSP items.

As I said, many of our food products are kosher and many of our giftware items are religious in nature. These are specialty items not produced by U.S. companies to any degree. Our imports

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are thus not competing with U.S. industries and are not taking U.S. jobs.

What our imports are doing is providing for Jewish Americans kosher products they might not otherwise have. These products are already expensive because Israel is not a low wage country and because the product must be shipped over 6000 miles. The GSP, by eliminating the duty on these products, helps to reduce the cost somewhat. This benefits Jewish Americans, who are also American consumers.

If GSP benefits were lost, there would be no U.S. industry that would be helped. American consumers, however, would be hurt.

In view of these facts, as a U.S. importer, I strongly urge you to continue Israel as a GSP beneficiary.

# STATEMENT OF THE SHERWIN-WILLIAMS COMPANY
# TO THE SUBCOMMITTEE ON INTERNATIONAL TRADE
# COMMITTEE ON FINANCE
# UNITED STATES SENATE
# ON THE RENEWAL OF THE GENERALIZED
# SYSTEM OF PREFERENCES
# JANUARY 27, 1984

As a manufacturer of saccharin, Sherwin-Williams' experience with competition from Korean imports receiving preferential treatment under the GSP is an excellent illustration of why the GSP program must be changed. The Sherwin-Williams Company is the only remaining U.S. manufacturer of saccharin, including insoluble saccharin, sodium saccharin and calcium saccharin, which it manufactures at the company's facility located in Cincinnati, Ohio.

The GSP program is currently dominated by a small group of countries, receiving the lion's share of the benefits, which can no longer be called least developed. Neither the Trade Act of 1974 nor S. 1718 adequately provide for elimination of beneficiary status for those countries which attain a highly competitive position in the market place. Duty free entry of saccharin under the generalized system of preferences has caused substantial harm to the Sherwin-Williams Company. Its production of the chemical is well below full capacity and the company is faced with falling prices and shrinking profits brought on largely by already significant foreign price pressures.

Saccharin is imported into the United States primarily by four countries: Korea, Japan, China (PRC) and Taiwan. The

Republic of Korea has become the largest single importer of saccharin into the United States having surpassed Japan. As such its competitive position is well established. Indeed, Korea has also been a price leader in the U.S. market for saccharin and does not need duty-free GSP status to compete. Because of its price advantage, it could maintain or even expand its market share without GSP status for saccharin.

Sherwin-Williams' share of the domestic market has been eroded steadily by imports, particularly from Korea and Japan. By the end of 1983, Sherwin-Williams' once dominant share of the market had shrank to roughly 50 percent with imported saccharin accounting for the rest of the market. (Sherwin-Williams' current production capacity would allow it to supply 100 percent of domestic demand at current levels.)

The most recent import statistics clearly demonstrate Korea's ability to rapidly achieve substantial market penetration. From 1982 to 1983, Korean imports of saccharin more than doubled (2.2 times). Nor are the Korean imports merely displacing other foreign imports. Japanese saccharin imports increased by over one and a half times in the same period while Sherwin-Williams' sales have barely increased in the expanding market for saccharin. The net result is substantial loss of market share to foreign competition.

Sherwin-Williams' experience with Korean imports demonstrates why the 50 percent competitive need limit is not an adequate safeguard to protect domestic interests. In 1981, Korean imports exceeded the competitive need limit and, therefore, Korea was ineligible for GSP status in 1982. The Koreans have since learned to be more careful. In 1983, Korea was able to keep its saccharin imports at a level just under 50 percent of the total for all imports and at the same time increase its share of the U.S. market. By doing so, Korea is able to maintain its position as the leading importer of saccharin while also receiving the benefits of preferential tariff treatment under the GSP program.

Despite the steady decline in market share for Sherwin-Williams, and despite the high fixed costs associated with producing saccharin, Sherwin-Williams has attempted to limit laying off employees as much as possible. Nevertheless, foreign competition forced the company to lay off approximately one-third of its saccharin work force in 1982. If the company's market shares and profits continue to decline, the company will have no choice but to lay off additional employees. It is important to recognize that even with these severe cost cutting efforts and resulting price reductions, Sherwin-Williams still lost market share to foreign competition in 1983 and it expects that erosion to continue. Substantially lower labor costs and government subsidies have made it virtually impossible to compete on price with a GSP advantaged country like Korea. Even though we are cutting our costs to the bone, continued GSP status for Korean saccharin may lead to the closing down of the only remaining U.S. saccharin plant.

It is well established that 64 percent of all GSP duty-free imports in 1982 came from five countries. These countries, including Korea, have clearly graduated to the stage of economic development where, having proven their competitive position in the U.S. market, they no longer need the benefits of GSP duty-free treatment on their exports to the United States. Moreover, these countries have experienced significant increases in per capita GNP since the GSP program came into effect. Korea, for example, enjoyed an increase in per capita GNP of 170 percent in the period from 1975 to 1980.

The continuation of beneficiary status for countries such as Korea is contrary to the intent of Congress when it established the GSP. It does not make sense to allow a developed country which has already captured a major portion of the U.S. market for a certain product to continue to enjoy duty-free status for that product. In the case of a product such as saccharin the GSP program, by granting imports an extra competitive edge, operates significantly to the detriment of American industry and American jobs.

February 10, 1984

Before The

SUBCOMMITTEE ON TRADE, COMMITTEE ON FINANCE
UNITED STATES SENATE

TESTIMONY OF THE

FOREIGN TRADE ASSOCIATION OF SOUTHERN CALIFORNIA
INTERNATIONAL COMMERCE COMMITTEE,
LOS ANGELES AREA CHAMBER OF COMMERCE
LAREDO CUSTOMHOUSE BROKERS ASSOCIATION
EL PASO CUSTOMHOUSE BROKERS ASSOCIATION
SOUTHERN BORDER CUSTOMHOUSE BROKERS ASSOCIATION

## INTRODUCTION AND ENDORSEMENT OF THE U.S. GSP

This testimony is submitted on behalf of the above-noted organizations, all of which strongly support the goals of the U.S. GSP program, and believe that the program has operated well, and in a manner which has, in general, been appropriate to attaining those goals. These organizations emphatically endorse the renewal of the U.S. GSP program, with certain limited modifications designed to ensure that the program's future operations will be entirely consistent with the aims of GSP.

The Foreign Trade Association of Southern California is an organization composed of over 500 firms engaged in international trade activities in Southern California and throughout the Southwest. The International Commerce Committee of the Los Angeles

Area Chamber of Commerce has over 4,000 members in five counties in Southern California.

The Laredo Customhouse Brokers Association is comprised of 25 (out of 27) licensed U.S. customhouse brokers in Laredo, Texas. The firms belonging to this Association employ approximately 175-200 employees and handle approximately 1,500 transactions (U.S. Customs entries) per week.

The El Paso Customhouse Brokers Association consists of nine member companies, which employ approximately 100 persons and handle approximately 750-1000 transactions per week.

The Southern Border Customhouse Brokers Association is comprised of approximately 25 customhouse brokers involved in the importation of articles along the southern border of the United States. The Southern Border Customhouse Brokers Association represents customhouse brokers in all Customs ports of entry from Brownsville, Texas to San Ysidro, California.

Members of the organizations for whom we appear today are vitally interested in developments affecting international trade, including the operation of the U.S. GSP program. In particular, members of these organizations are increasingly aware, as are many Americans, of the linkage between the Mexican and U.S. economies. Accordingly, we wish to emphasize that because the overall economic health of Mexico is of vital importance to the United States, the benefits available under GSP should be liberally extended to Mexico.

## I. Endorsement of GSP, and Importance of the Program to Mexico

GSP is an important aspect of the United States' economic and foreign policy, which helps BDCs diversify their economies and increase their export possibilities. Moreover, it has been recognized that developing countries currently represent the United States' most important export markets, and that the GSP, by increasing the ability of the BDCs to obtain U.S. dollar earnings, increases the ability of the BDCs to purchase U.S. exports. In other words, increased export opportunities for the United States are a natural and predictable consequence of the U.S. GSP program.

Thus, the position of those for whom we testify today is that the existing statutory authority for the GSP should be renewed with some improvements and, most of all, with a strong indication that the program's original goals, purposes and underlying principles are to remain intact. Specifically, the renewed GSP should take into account the following:

1. The on-going goals of the GSP are to assist developing countries to increase their exports, diversify their economies, and lessen their dependence on foreign aid.

2. The U.S. GSP results in significant benefits to U.S. exporters and other U.S. economic interests, by increasing the ability of BDCs to obtain U.S. dollar earnings, thereby increasing their ability to purchase U.S. exports.

3. The current "competitive need limitations" which are part of the U.S. GSP law have operated effectively, although in some cases too restrictively, in phasing out GSP benefits as developing countries become internationally competitive in specific products, and in providing protection to U.S. domestic industry. Therefore, the current competitive need limitations should be utilized as the sole criteria, except in unusual cases, for determining that a particular beneficiary country has become "internationally competitive" in a given article.

4. The graduation of a BDC with respect to a given article has not and will not, in most cases, result in increased export opportunities for lesser developed BDCs. Therefore, discretionary graduations should be made only in the presence of clear evidence that such action will accrue to the benefit of a lesser developed beneficiary country.

5. The renewed GSP should provide the President with discretionary authority to waive the competitive need limitations.

6. The United States has recognized that the GSP programs of the developed nations are intended to be non-reciprocal tariff preferenced systems.

7. The GSP's rules of origin should be modified so that the value of U.S. components incorporated in the exported article is counted toward satisfying the "35% local content rule."

We are aware that on July 22, 1983 USTR transmitted to the Chairmen of the House and Senate Trade Subcommittees the Administration's proposed GSP renewal legislation, we are pleased that the Administration has strongly endorsed the renewal of GSP. However, we are greatly concerned that some provisions of the Administration's proposal are contrary to the overall economic interests of both beneficiary countries, particularly Mexico, and of the United States, and are not in keeping with the principles which underlie the GSP programs of the world's developed nations. Therefore, portions of our testimony will refer to the Administration's initial proposal.

We are especially concerned about the apparent trend, exhibited in the last two annual product reviews conducted by USTR, and further enunciated in the Administration's proposed legislative package to Congress to renew GSP, to limit the benefits of GSP. We strongly believe that this policy is unwise, both economically and politically, as it will not only hamper the emergence of some of the more advanced developing countries into the ranks of the developed nations, but will also cause increased political tensions between these nations and the United States. This is particularly so in the case of Mexico, a country struggling to recover from its worst economic crisis in over fifty years, and whose recovery is in large part dependent on its ability to export to the United States.

### A. Opposition To Discretionary Graduation And Reduced Competitive Need Limitations

Since the inception of the U.S. GSP program, it has been the intention of the United States to phase out GSP benefits as developing countries become "internationally competitive" in specific products. The Trade Act of 1974, which enacted the U.S. GSP program, established the so-called "competitive need limitations" as the means by which such phasing out would be accomplished. In the President's Report to the Congress on the First Five Year's Operation of the U.S. Generalized System of Preferences (GSP,) it was noted that competitive need exclusions grew from $1.9 billion in 1976 to $3.2 billion in 1978.[1] In 1982, competitive need exclusions exceeded $7.1 billion.[2]

Thus, the statutory competitive need limitations, operating as the criteria for determining whether a BDC is internationally competitive in a product, have resulted in the exclusion of a tremendous volume and value of BDC exports from GSP eligibility. However, although the President has reported to the Congress that the existing competitive need limits have operated effectively in excluding competitive beneficiaries from receiving GSP benefits by excluding major beneficiaries from receiving duty-free treatment for a large share of their eligible trade, the President has also reported that these limits have not resulted in a wider distribution of GSP benefits among developing countries. As the President's Five Year Report stated, even in product areas where major beneficiaries have been excluded from GSP benefits as a result of the statutory competitive need limitations, a lack of productive capacity has prevented low income beneficiaries from achieving large increases in their GSP exports.[3]

Given the fact that the statutory competitive need limitations have operated to exclude a large share of the major beneficiaries' trade from GSP eligibility, and that such exclusions have not resulted in a wider distribution of GSP benefits, it simply makes no sense for the U.S. government to "graduate" a BDC with respect to a specific product unless there is clear and convincing evidence that such a discretionary graduation will result in increased exports by a lesser developed BDC.

In light of the facts outlined above, we strongly oppose the concept embraced in Section 4 of the Administration's proposed GSP legislation.

Section 4 would reduce competitive need limits by one-half for products from countries "which have demonstrated a sufficient degree of competitiveness relative to other beneficiary countries with respect to an eligible article." (Emphasis added). The adoption of such a provision would be a radical departure from current administrative practice, notwithstanding the Administration's erroneous contention in its "Summary of Generalized System of Preferences Renewal Act of 1983" that a particular BDC's competitiveness relative to other GSP beneficiaries is a factor currently considered in the administration of the President's discretionary graduation authority. Historically, decisions to graduate countries from GSP eligibility with respect to various products have been based on three factors: (1) the country's level of development, (2) the country's competitiveness in the specific product, and (3) the overall economic interests of the

United States, including the import sensitivity of the domestic industry.[4] These factors provided the basis for graduation decisions in the 1982 GSP product review,[5] and will be the basis for such decisions in the 1983 GSP product review.[6] Nowhere has it been suggested that the second enunciated factor -- a BDC's competitiveness in the specific product -- means its competitiveness as measured against other GSP-eligible imports; the measure of competitiveness has been, is, and should remain competitiveness, relative to imports from all countries.

To measure a BDC's competitiveness only by examining other GSP eligible exports of the same product would be meaningful only if such exports competed only against other GSP exports. If such were the case, the benefits of the removal of GSP eligibility based on such a comparison would necessarily accrue to other BDCs. However, GSP-eligible trade obviously competes against trade from not only BDCs, but also from the developed countries. Therefore, while we strongly oppose any reduction in the competitive need limits, we would emphasize that any test of competitiveness which would limit a BDC's GSP eligibility for a specific product must be based on competitiveness relative to all countries with respect to a certain article, not only other GSP beneficiaries.

Those interested in the economic well being of Mexico view Section 4 of the Administration's proposed bill with particular concern. Mexico is the only BDC which borders the U.S., and as a result of its geographic contiguity to the U.S., Mexico exports many GSP eligible products to the United States which other BDCs, due to their geographic disadvantage, do not, and in many instances, cannot, export to the United States, or export only in small quantities. A comparison of the value of Mexican imports of such items only to other GSP eligible imports would indicate that Mexico was very competitive with respect to these items. In fact, ~~such~~ imports from Mexico might account for only a small percentage of total U.S. imports of the item in question, since imports from developed countries (especially Canada) would not be taken into account. The benefit from removing GSP eligibility from such products from Mexico would not result in increased imports from other BDCs, but would more than likely allow an even more developed country to fill Mexico's place.

A case illustrating this point can be found in the ongoing 1983 GSP product review. A petition has been filed requesting the graduation of certain glass containers from Mexico from GSP eligibility. The petition argues that these glass containers from Mexico no longer need GSP to compete effectively in the U.S. market, and in support of this contention sets forth data which show that Mexico accounted for 59.60 percent of the total value of U.S. GSP eligible imports of glass containers in 1982, 46.68 percent in 1981, and 53.40 percent in 1980. However, what that petition fails to mention is the fact that in 1982, imports of these glass containers from Mexico accounted for only 5.21 percent of total U.S. imports, and only 2.61 percent in 1981 and 3.11 percent in 1980. As can be seen, despite the fact that Mexico accounted for a large percentage of the value of GSP imports, it accounted for only a small percentage of the value of total imports. If it is ultimately decided to remove GSP eligibility from this product from Mexico, the benefits will more than likely accrue to one of the developed countries, not another BDC. Such a result would surely not be consistent with the intent of the GSP program.

The mere fact that a BDC has demonstrated competitiveness in a certain product relative to other GSP imports does not necessarily have any relation to that BDC's competitiveness with respect to that product relative to overall U.S. imports. This has been recognized by the USTR in making its graduation decisions. USTR has looked to a country's overall competitiveness with respect to a specific product, not its competitiveness relative to other GSP beneficiaries. The comparison which the Administration's proposed Section 4 calls for is at best irrelevant, and at worst truly deceptive. We strongly urge that Congress reject the lowering of the current competitive need limits. However, if the limits are to be lowered under certain circumstances, then Congress should make clear that a BDC's eligibility should not be limited unless there is clear evidence that such action would accrue to the benefit of one or more of the lesser developed BDCs, and that the overall interests of the United States would be served. The Administration's proposal assures neither of these.

### B. Endorsement Of Authority To Waive Competitive Need Limits; Opposition To Conditioning Waivers On Assurances of Market Access

We believe that with regard to the dollar value competitive need limitation, the law should provide the President with discretion to waive the removal of GSP benefits, or restore benefits, when, for example, excessive increases in costs of raw materials have led to increased value of imports without actual increase in shipments to the United States, or when total imports from BDCs of a product are deemed not to be a significant part of total U.S. imports of that product. Discretion to waive the 50 percent limitation should also be built into the new law. The law should permit the President to invoke such discretion if failure to waive the 50 percent limit would likely cause trade to move to an industrialized country, or would otherwise bring about results unintended by the GSP.

Proposed Section 3 of the Administration's bill, by directing the President to give "great weight" to the extent a BDC has given "assurances" of equitable and reasonable access to its home market in determining whether to waive the competitive need limit, would transform the GSP program into a lever with which the United States may seek to pry open foreign markets by demanding greater access for U.S. goods before agreeing to waive the (probably already reduced) competitive need limit. This would be a particularly disturbing development in the U.S. GSP program, because it would turn GSP into a weapon to be used against BDCs to obtain access to their markets for U.S. exports. Such a perversion of the GSP program, which was enacted with the intent of enabling BDCs to secure a foothold in the U.S. market, clearly has no place in the law.

The concept of a generalized system of tariff preferences was introduced formally at the first United Nations Conference on Trade and Development (UNCTAD), a conference whose purpose was to examine the means for increasing the economic wealth of the developing countries of the world through trade rather than aid. At this conference the developing countries claimed that one of the major impediments to their economic growth was their inability to compete with the developed countries in the international trading system. GSP programs have been established by developed countries to meet this concern. Neither at that time, nor at any time thereafter, was GSP intended to provide the developed countries with increased leverage to gain access to BDC markets, something the Administration seeks to accomplish with its proposed GSP legislation.

That GSP was not to be used to gain reciprocal concessions from BDCs has been clearly recognized by the United States government. In the President's Five Year Report, it was reported that at the Tokyo Round of Multilateral Trade Negotiations (1979), the United States had taken the position that "GSP was a temporary, non-reciprocal program and therefore outside the scope of the MTN."[7] (Emphasis added.) As recently as March 31, 1983, USTR, in announcing the results of the 1982 GSP product review, described

GSP as "a program of unilateral tariff concessions granted by the United States to developing countries to assist in their economic development."[8] (Emphasis added.)

Accordingly, the scheme of the Administration's proposed bill, which would first shrink BDC's benefits, and then enable BDC's to buy them back by providing some as yet undefined assurances of reasonable access to its home market, is totally inappropriate and should not become law. If Section 3 of the Administration's proposed bill actually receives serious consideration, it will be of particular concern with respect to Mexico, which in the 1983 GSP product review had 55 items, having a total value of almost $1.7 billion, declared ineligible for GSP treatment becuse of competitive need limitations. No other country had more items excluded from GSP eligibility than Mexico on this basis, and only Taiwan had more trade, in terms of dollars, declared ineligible for GSP treatment.

Because so much trade from Mexico is ineligible for GSP treatment due to competitive need limits, the new emphasis on reciprocity contained in the Administration's bill is viewed with apprehension in Mexico. Even though Mexico is and has been for some time the United States' third largest export market, and more U.S. goods are exported to Mexico than to any other PDC, if this provision were to be enacted into law, it would be possible for the United States to demand in an inappropriate manner even more access to Mexican markets in exchange for waiving the application of the competitive need limits for certain products.

That such a scenario could be possible is due in part to the ambiguity of proposed Section 3. What constitutes "equitable and reasonable access"? Is it to be determined on the basis of overall trade, or on a product-by-product basis? Surely the Administration does not mean that a BDC must provide "equitable and reasonable access" to U.S. exporters for every product it exports to the United States which receives GSP treatment. Again, we believe that Section 3 of the proposed bill, and the concept which is its basis, must be rejected. However, if Section 3 is considered by Congress, a much more precise definition of "equitable and reasonable access" should be included to equate the term with overall trade, rather than trade in individual products.

Congress should be aware that the GSP program is already perceived in many of the BDCs as being administered without due regard for the economic and political realities present in developing countries. This should be the cause of concern for both the Administration and the Congress, since the intent of this program was to help the BDCs develop economically -- it was not meant to be a further irritant in U.S. relations with them. This is particularly so in the case of Mexico, located on our southern border and in what has become one of the major areas of focus and concern of U.S. foreign policy -- Central America. In this increasingly volatile region, Mexico stands not only as one of the few remaining democratic states, but also as the most stable nation in the region. At this time, U.S. policy should be directed at strengthening ties with Mexico; yet, Congress should know that the administration of the GSP -- most recently the results of the 1982 GSP product review -- has at times served to exacerbate tensions between the two countries. The Mexican media reported the results of the 1982 GSP product review in the following manner:[9]

> The tax imposed by the Reagan administration on 55 Mexican products is unjustified, lacking political and economic content, a blow to the industrialists with creditors abroad, and [will result in] a loss estimated at $1.6 billion for this year, government and private sector sources have indicated. Mexican Under Secretary for Foreign Trade Luis Aguilera said the taxes announced on Wednesday of last week, which directly affect 16 Mexican export products, do not take into account the country's current economic situation. It is a case of unjustified protectionism, he said, applied to the only country in the world which devotes 66 percent of the foreign currency it collects to purchases in the U.S. markets.

We respectfully submit that the power to dangle the possibility of waiver of reduced competitive need limits in exchange for some type of assurance of increased access to Mexican markets -- when U.S. exports have already penetrated Mexico to a tremendous extent -- would not serve either the economic or political interests of the United States.

It is our belief that "equitable and reasonable access "to BDC markets for U.S. exports can best be assured by allowing BDCs continued access to U.S. markets. From their exports to the U.S., BDCs obtain needed dollars which enable them to purchase U.S. exports. Without such dollars, BDCs are unable to import goods from the U.S. Therefore, attempts to limit BDC access to

U.S. markets will have the unwanted effect of reducing U.S. exports to the BDCs. Mexico is a perfect illustration of this point -66 percent of the foreign currency it obtains from exports is devoted to the purchase of U.S. goods.[10] But, as Mexican Foreign Minister Bernardo Sepulveda stated this past April, "Mexico will only be able to maintain its imports insofar as [it] generates the means to pay for them."[11] Over the past few months reports have appeared in the press[12] about how the United States has been hurt by the sharp drop in Mexican imports from the United States, due to Mexico's lack of foreign exchange, which can only be generated by exports. As Mexican President Miguel de la Madrid recently stated, the growing protectionism in the United States and other developed countries is affecting not only the economies of the developing nation, but also their own domestic economies. He asked the United States "to understand that if we are to buy again, they must buy more from us."[13] Continued access to the U.S. market is becoming even more important to Mexico in light of the political and military situation in Central America. It has been reported that Mexico's commercial trade with Central America has declined by 30 percent due to the current tensions in the region.[14]

Mexico is not the only developing country which depends on exports to provide foreign exchange, and these countries' inability to obtain the needed foreign exchange to finance imports has hurt U.S. exporters and threatens to slow the U.S. economic recovery.[15]

This fact was recently highlighted by an article appearing in the Federal Reserve Bank of New York's Quarterly Review.[16/] The findings presented in this article, summarized in the paragraphs below, shows how the continuing debt servicing problems faced by Mexico, as well as many other Latin American countries, have had a serious, negative impact on the U.S. economy.

Due to the acute shortage of foreign exchange prevalent throughout most of Latin America as a result of the Latin American debt crisis, Latin American countries have been severely restricted in the amount of merchandise they have been able to import from the United States. Although U.S. exports to Latin America accounted for only 17% of total U.S. exports in 1981, between 1978 and 1981 these exports had grown over 50% faster than U.S. exports to the rest of the world. In 1982 U.S. merchandise exports to Latin America dropped nearly 9 billion dollars, accounting for over 40% of the total decline in total U.S. exports in 1982.

U.S. exports to Mexico have been particularly hard-hit by Mexico's debt service crisis. Mexico, the third largest trading partner of the United States, accounted for nearly half of U.S. exports to Latin America in 1981. Due to the jolting economic crisis experienced by Mexico in the last half of 1982 and the first half of 1983 -- a crisis which Mexico is still struggling to extricate itself from -- U.S. exports to Mexico fell by one-third in 1982, and it is expected that exports in 1983 will show a similar decline.

Several of the U.S. industries which have suffered most from the decline in exports to Latin America are the same U.S. industries that were among the hardest hit by the U.S. recession. Particularly hard-hit by the decline in exports to Latin America since 1981 have been the machinery and transportation equipment industries, as well as exports grouped together in statistical compilations as "other manufactured goods."

However, the declining U.S. exports have not been limited to traditional manufacturing industries alone. Exports of high technology products, which initially were unaffected by the Latin American debt crisis, have declined approximately 16% in 1982, and, during the first half of 1983 they have declined 38% from the last half of 1982.

Obviously, the impact of the Latin American debt crisis on the U.S. economy has been severe. In 1982 alone, nearly 9 billion dollars of merchandise exports to Latin American countries were lost, costing the American economy some 225,000 jobs. More than three-quarters of these lost jobs are estimated to have occurred in the machinery, transportation equipment and other manufactured goods sectors of the economy, where unemployment in 1982 was already generally higher than the average U.S. unemployment rate. Furthermore, falling exports to Latin America are estimated to have contributed directly to about a 0.3% decline in the real U.S. GNP in 1982. Figures for the first half of 1983 indicate this trend is continuing. During this period, U.S. exports to Latin America fell an additional 19% over the previous 6-month period, and were down by more than one-third from the first half of 1982. It has been estimated that U.S. exports to 20 Latin American countries in 1983 will fall some 40% below the level reached in 1981. It is further estimated that if the export projections for 1983 are accurate, nearly 400,000 U.S. jobs will have been lost during 1982 and 1983 as a result of declining merchandise exports to Latin America.

In sum, the U.S. economy generally, and U.S. industry in particular, benefits from the ability of BDCs to purchase U.S. goods. Restricting the access of these countries to U.S. markets by limiting the availability of benefits under the U.S. GSP program will decrease their ability to obtain the foreign exchange needed to purchase U.S. goods, and in the long run will cause serious harm to many U.S. industries.

The Administration's goal of obtaining further access to BDC markets is a desirable one, but the means by which it seeks to achieve this goal is unwise. Using the GSP program as a lever to obtain such access, by tying waivers of competitive need limits to assurances of "equitable and reasonable access" to BDC markets, perverts the purpose of GSP, which is to give BDCs access to markets in the U.S. and other developed countries. The GSP program can be expected to increase U.S. exports to BDCs by providing BDCs with markets in the United States. By being able to export to the United States, BDCs obtain foreign currency, which enables them to import from the U.S. Thus, conditioning competitive need waivers upon market access assurances would be inappropriate to the goals and purposes of the GSP. To couple such a conditional waiver with a requirement that those competitive need limits be reduced -- without evidence that trade would shift to lesser developed BDCs -- would needlessly restrict GSP benefits, contrary to the interests of the United States and beneficiary countries.

### C. Modification Of Rules Of Origin

We believe that certain modifications to the U.S. GSP rules of origin would foster the goals of GSP, as well as provide significant benefits to U.S. exporters. Most importantly, the "35 percent local content" rule should be changed in the new legislation. Specifically, a provision should be enacted enabling the value of U.S. materials, fabricated parts, and other physical imputs to be counted toward satisfying the local content requirement.

We suggest that the current 35 percent local content rule be continued in the new legislation. In addition, however, U.S. origin content should be counted toward satisfying the requirement. Additionally, we recommend that when two or more BDCs produce a product, cumulative fulfillment of the local content rule should be permitted. Finally, with regard to the rules of origin, we recommend that the so-called "double substantial transformation" requirement be abandoned in favor of the criteria which apply to the legal requirements of country of origin marking.

These suggestions are all consistent with the goals of the GSP program, and their implementation would foster development in BDCs with benefits accruing to U.S. consumers and U.S. businesses, without any harm to U.S. domestic industry.

## NOTES

1. Report of the Congress on the First Five Years Operation of the U.S. Generalized System of Preferences (GSP), transmitted by the President on April 17, 1980, WMCP 96-58, at 3. Hereinafter cited as "President's Report to Congress."

2. Office of the United States Trade Representative, Press Release 83/12 (March 31, 1983) at 2. Hereinafter cited as "USTR Press Release 83/12." See also - Annex to USTR Press Release 83/12, Table 6.

3. President's Five Year Report, at 30.

4. Id., at 69.

5. USTR Press Release 83/12, at 2.

6. 48 Fed. Reg. 33400 (1983).

7. President's Five Year Report, at 3.

8. USTR Press Release 83/12, at 3.

9. NOTIMEX (in Spanish), 5 April 1983, reported in FBIS, 6 April 1983, at M1.

10. Id.

11. The Washington Post, April 19, 1983, at A12:1.

12. Id., The Wall Street Journal, May 23, 1983, at 39:1.

13. El Universal (in Spanish), 29 June 1983, reported in FBIS. 6 July 1983, at M1.

14. Havanah Domestic Service (in Spanish), 16 June 1983, reported in FBIS, 17 June 1983, at M1.

15. See "Exports to Developing Countries Fall, Possibly Slowing Recovery in U.S.," The Wall Street Journal, March 28, 1983, at 25:4.

16. Dhar, "U.S. Trade with Latin America: Consequences of Financing Constraints," FRBNY Quarterly Review (Autumn 1983) 14. This article was based in part on a study prepared by Lester A. Davis of the U.S. Department of Commerce, entitled "Domestic Employment Generated by U.S. Exports." (Project DTR-27-83)

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WRITTEN STATEMENT
OF
NED SAMBUR
DIRECTOR OF COMMERCIAL OPERATIONS
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BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE

UNITED STATES OF AMERICA

ON
RENEWAL OF THE UNITED STATES
[redacted]

JANUARY 31, 1984

Educational Design is a U.S. company importing educational science kits and educational box games from kibbutz in Israel.

These kits and box games are high quality educational "toys" that sell in the United States at not under $20.00 (except for our Minilabs which sell for $6.00). The box games are fully under the GSP; the science kits are itemized by parts, with some parts paying duty, and other parts getting GSP benefits. Some of the parts are also American goods returned. We currently pay 3% to 5% duty on the value of the kits. Without the GSP, the duty would be about 18%.

We are also anticipating importing a new hi-tech item which will be of great educational value. We expect to sell it not only in the commercial market, but also to the elementary school market. It will teach six through ten year olds how computers work, and the logic behind them.

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The value of our sales of these items is currently between $750,000 to $800,000 a year.

We started importing these items in 1981 as a direct result of the GSP. Without the GSP and without Israel's product, we could not have developed the market. If GSP benefits were lost to us and we had to pay duties, this division of our operations would not be profitable since these items are already very high priced for the U.S. market.

In addition, we have started to develop an export market for these games. At present, it is about 5% of our gross sales. During the current year, we hope to double this percentage. Our ability to offer low prices because of the low GSP has made these products very attractive.

Our leaving this market - because of loss of GSP benefits - would have a significant impact for two reasons:

> First, there are, as far as I know, no similar kits produced in the United States. If we stopped selling, U.S. children would not have the benefit of these educational toys. (Ironically, we find we do not compete with other toys, but with video games.)
>
> Second, while some of the kits enter whole, some enter in bulk and are packaged here. To do the packaging, we employ handicapped workers from Staten Island workshop. The workshop gives work to 60 handicapped individuals and we are the workshop's largest customer. In fact, 20% of our business is packaged by them. If we stopped importing kits, we would have to terminate our contract with the workshop.

EDI
EDUCATIONAL DESIGN, INC. 47 WEST 13 STREET, NEW YORK, N.Y. 10011 (212) 255-7900

In sum, then, loss of the GSP benefits for Israel would mean we could not continue to import these fine products from Israel. Since these types of "toys" are not produced here, no one would really benefit. On the other hand, our handicapped workers would be deprived of packaging work on these items. And, since some of the parts are American goods returned, at least some U.S. companies would lose sales to Israel.

Because of all this, I strongly urge you to continue the GSP and to keep products from Israel in the program.

Very truly yours,

Ned E Sambur
Ned Sambur
Director of
Commercial Operations

NS:ab
CC: Dennis James, Jr. ESQ
Michelle Meryn

February 9, 1984

# WRITTEN STATEMENT OF THE
# NATIONAL AGRICULTURAL CHEMICALS ASSOCIATION
# BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE
# OF THE
# U.S. SENATE FINANCE COMMITTEE
# ON
# REAUTHORIZATION AND REVISION OF THE GSP PROGRAM

The National Agricultural Chemicals Association (NACA), an industry association of approximately 100 agricultural pesticide manufacturers and formulators, urges modifications to the Generalized System of Preferences (GSP) to improve intellectual property rights protection in countries receiving GSP benefits. NACA also endorses statements by the Office of the Chemical Industry Trade Advisor, U.S. International Anti-counterfeiting Coalition, and others at the Subcommittee's hearing on January 27, 1984, supporting GSP modifications to address this grave concern.

NACA represents U.S. companies which produce, formulate and sell agrichemicals. Forty-one of our members are actively engaged in foreign trade; with over half of our members engaged in extensive, costly research and development to supply foreign and U.S. markets and to discover new and safer products. About one quarter of our industry's total sales are in foreign markets, resulting in a positive trade balance for the United States of $1.26 billion.

Our members' research and development efforts are both costly and time-consuming, with extensive health and safety testing to obtain government registrations and to develop markets in the United States and abroad. The development and registration of a single new agrichemical can take ten years and cost up to $40 million. As a consequence, maintenance of property rights in these high technology products is critical to protect and recover that investment and to encourage new investment.

The many and varied segments of our domestic industry that have stated their concerns to the Subcommittee amply highlight the alarming increase in the counterfeiting of U.S. products, the piracy of American patented and copyrighted innovations and similar theft of our intellectual property by firms in foreign countries. These illicit imitations are entering the U.S. increasingly and, at the same time, are flooding our markets overseas. The impact of the rampant piracy and counterfeiting is seriously detrimental to the recovery of research and development costs necessary to establish new high technology products and, although probably not measurable yet, is impairing the pace of technological innovation in the U.S.

Certain countries have created pirate enclaves through weak laws and practices under which U.S. companies cannot obtain and enforce patents, trademarks, copyrights and other forms of intellectual property rights protection. Local companies are then able to copy our property at will and export their imitation products around the world. Virtually all of this illicit activity is centered in the more advanced developing countries which are the biggest beneficiaries of GSP duty-free treatment. Taiwan, which received almost 28% of all GSP benefits last year, is the undisputed counterfeit capital of the world. Every country that has a significant piracy problem is also a major recipient of GSP benefits. Attached to this statement are representative examples of this broad-scale problem.

The basic purpose of GSP is economic development of lesser developed countries by trade, not aid. Little attention has been given to the second purpose - trying to liberalize their trade policies and bring them into the international trading system with its attendant responsibilities. To help create economically strong countries which are international trade bandits is not the purpose of the Program nor is it in our national interest. With the more advanced developing countries, it is time to shift the focus of GSP to trying to improve trade practices. GSP, with its access to the large and lucrative U.S. markets on preferential terms, can be a powerful lever to encourage lesser developed countries to improve their laws and practices.

It is time we require fair treatment for American industry from GSP beneficiary countries. The provision of reasonable protection for intellectual property rights should be seriously considered in determining whether, and to what extent, GSP benefits should be granted to a country and its products.

Recommended statutory language to accomplish this objective is attached. We strongly encourage inclusion of such provisions in the legislation currently being considered by the Subcommittee.

## NACA PROPOSAL

Amend §502(b), 19 U.S.C. §2462(b), to include a new paragraph "(8)" as follows:

> (8) if such country fails to provide under its laws adequate means for foreign nationals to secure, exercise and enforce exclusive rights in intellectual property, including, but not limited to, patent, copyright and trademark rights, unless the President receives assurances satisfactory to him that the country is taking appropriate steps to provide such means and he submits a written report to both houses of Congress detailing the nature of those assurances.

Amend §502(c), 19 U.S.C. §2462(c), to include a new paragraph "(5)" as follows:

> (5) the extent to which such country provides effective protection for intellectual property rights, including, but not limited to, patents, trademarks and copyrights.

Amend §504(c)(3)(B) (as proposed in S.1718) to read as follows:

> (B) In making any determinations under subparagraph (A), the President shall give great weight to the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to its markets, including the provision of adequate means for foreign nationals to secure, exercise and enforce exclusive rights in intellectual property.

## BRIEFING PAPER

It is Chevron's position that the Chinese Government should change its present attitude toward the intellectual property rights of others to one of respect. The Government has been quite vocal in its spoken policies to "stamp out counterfeiters", but in actuality has aided and abetted infringers in its community to avoid the spirit and letter of the law. This is amply evidenced by Chevron's own case in the Republic of China, wherein the Courts and the Governmental agencies have acted not only to deny all effective relief but have stripped Chevron of its patent rights.

It is also Chevron's opinion that the Republic of China should modify its patent laws to allow claims to compounds per se. This is especially needed in view of the lack of civil discovery procedures under its judicial system and the resulting difficulty of proving whether or not a specific process claim(s) is being infringed.

A brief summary of the events in the Republic of China, leading to our present position, follows.

Chevron developed a novel insecticide, Acephate, which demonstrated good insecticidal activity and exhibited low mammalian toxicity. Chevron applied for a patent in the United States covering the compound per se. Since Chinese law prohibits chemical claims, Chevron filed the same application in Taiwan in March 1970 as was filed in the United States, but broadly claimed an acylation process for the production of Acephate and other related compounds. The specification, as filed, taught several acylation processes useful for manufacturing Acephate, including the acylation of methamidophos with acetic anhydride.

In April, 1971, the National Bureau of Standards (Chinese Patent Office) rejected Chevron's claims under Articles I and II of their Patent Law on the Grounds that the claimed process covered too many compounds and that a number of the compounds were not demonstrated to be effective.* Chevron appealed to the Ministry of Economic Affairs and the Ministry allowed Chevron claims to an acylation process for the manufacture for Acephate and a portion of the other compounds shown to be effective, stating that the process was novel and had been proven effective by experiment.

In 1981, Chevron became aware through its distributor that Acephate was being imported into the Republic of China and marketed by Eastern Pioneer Traders, Ltd. and an affiliate company, Hwa Lung Chemical Co. The product marketed by Eastern Pioneer was sold in bags identifying the product originating from Dubbini S.p.A. of Italy and Makhteshim Chemical Works, Ltd. of Israel. Chevron filed actions against the Chinese firms since the patented process claims cover any products manufactured under the process and the sale or use of such products is therefore prohibited.

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*Note that Article IV of the Chinese Patent Law prohibits granting patents on chemicals per se.

Since Acephate was a novel compound, the Trial Court ordered the Defendants to disclose the process by which the Acephate was being manufactured. In response, the Defendants tendered a letter from Jin Hung Fine Chemicals of South Korea, stating that the Acephate was produced by an acylation route which was not specifically disclosed in Chevron's Chinese patent. Chevron objected to this evidence on the grounds that the bags marketed by Eastern Pioneer clearly stated that the manufacturer of the active ingredient was Dubbini of Italy or Makhteshim of Israel.

The Court ignored the objections and submitted the process presented by Jin Hung of South Korea to the National Bureau of Standards, requesting that the Bureau give its opinion as to whether or not the process was an infringement of Chevron's patent. (In the meantime Chevron had instituted suit in South Korea against Jin Hung and had discovered that the letter submitted to the Chinese Court was an unmitigated lie. Jin Hung was actually preparing Acephate by acylating methamidophos with acetic anhydride, a process clearly described in Chevron's Chinese patent).

The National Bureau of Standards responded to the Court's request stating that since the claims did not refer to the starting materials and reaction conditions, that it could not determine whether or not any process would infringe. Based upon this opinion, the Trial Court immediately rendered judgment for the Defendants.

After consulting with local counsel, Chevron appealed the decision of the Trial Court and filed a voluntary application with the National Bureau of Standards seeking to reduce the scope of the claims by including the starting materials and the reaction conditions as required under the current Chinese patent practice.

Prior to the judgment, an attorney for the Defendant, Mr. Chien-An Chen, filed a nullification proceeding in the National Bureau of Standards seeking to revoke Chevron's patent on the grounds that it was not identical in wording to the parent United States patent and that the patent was directed to chemicals thereby violating the provision of Article IV of the patent law. The National Bureau of Standards rejected Mr. Chen's application, since the U.S. and Chinese patents obviously could not have identical claims due to the fact that the Republic of China does not allow compound coverage.

Mr. Chen then appealed to the Ministry of Economic Affairs and the Ministry concluded that the National Bureau of Standards had erred. Following the instructions of the Ministry, the

National Bureau of Standards duly revoked Chevron's patent on the grounds that the claims were essentially compound claims rather than process claims. This was done despite the fact that the claims of the Chinese patent expressly refer to a process. The National Bureau of Standards also stated that the modified claims submitted earlier by Chevron which set forth the starting materials and reaction conditions were not acceptable since they were not claims like those originally submitted in 1970.

The actions of the Ministry of Economic Affairs and the National Bureau of Standards cannot simply be dismissed as the correction of a past error in view of the scrutiny of the claims by both the Bureau and the Ministry at the time of issuance in 1971. This is further buttressed by noting that similar "process" claims were also approved by the National Bureau of Standards, in Chinese Patent No. 3215 for methamidophos and related compounds. As in the present case, the specification in Patent 3215 sets forth suitable manufacturing reactants and conditions but the claims are silent thereto. The National Bureau of Standards, in approving the patent stated:

> "The process of this application and the conditions used in this manufacturing process are new and practical and it has industrial value."

Chevron has appealed the revocation decision of the National Bureau of Standards to the Executive Yuan and the appeal of the infringement action has been stayed pending the decision from the administrative branch.

FOR. LG-4878

ESTABLISHED 1802
E. I. DU PONT DE NEMOURS & COMPANY
INCORPORATED
WILMINGTON, DELAWARE 19898

LEGAL DEPARTMENT

December 22, 1982

Mrs. Alice T. Zalik
Office of the United States
Trade Representative
Executive Office of the President
600 17th Street, N.W.
Winder Building
Washington, D. C. 20506

Re: Ad Hoc Committee - Mexico

Dear Mrs. Zalik:

Pursuant to your request for information on Du Pont's experience in introducing a new agrichemical into Mexico and then being foreclosed from the market by independent local manufacture and import restriction, a specific situation is described hereinafter.

Du Pont introduced BENLATE fungicide into Mexico in 1971 after extensive development work, including costly and time consuming field trials in Mexico, at a cost in excess of $500,000.[1] Registration was achieved in 1970 based on the Du Pont U.S. registration. From 1971 until 1978, Du Pont undertook considerable additional expense to improve the efficacy of BENLATE in the Mexican market, including developing applications on additional agricultural crops.

In 1978, a Mexican company, independent of Du Pont, Promotora Tecnica Industrial, started local manufacture of benomyl fungicide, and Du Pont was immediately excluded from the Mexican market by denial of import license for BENLATE.[2] This exclusion has been in effect to date, except for the admission of a small amount of BENLATE in 1980 because of the poor quality of Promotora's product.

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[1] The active ingredient in BENLATE is the compound benomyl. This compound and its useful form sold as BENLATE arose out of Du Pont research in the late 1960's. It revolutionized the agricultural fungicide art, because BENLATE had the ability to enter into the system of the plant for circulation throughout the plant to eradicate existing fungus attack and prevent new attack, thereby greatly increasing the yield of the agricultural crop.

[2] The import license technique as applied to agrichemicals probably reflects the mistaken belief that an agrichemical is producible by anyone and usable by anyone, without the expertise of the innovator, as though a commodity chemical is involved. To the contrary, sophisticated agrichemicals, such as benomyl, embody high technology both in the manufacture and the formulation into useful form as well as in the development of new agricultural uses and adaptation of formulations for new uses.

As you might expect, protection of industrial property rights is not available in Mexico to protect costs of innovation and local introduction. First, Promotora obtained the benefit of Du Pont's product registration virtually free of charge. This is ironic when it is obvious that Promotora's benomyl fungicide differs substantially from BENLATE.

Second, Du Pont's Mexican patent, expiring in 1982, provided meaningless protection by virtue of the inadequate Mexican patent law. More specifically, even though benomyl was a new compound and was patentable as such worldwide, Mexican patent law did not permit patenting either of the compound or compositions containing it (the same is true for the new Mexican patent law of 1976). Instead, the benomyl patent coverage was limited to the use of benomyl as a fungicide. This coverage was enforceable only against the user, i.e. the farmer. Thus, the combination of limited patent coverage and limited enforceability amounted to meaningless patent protection.[3]

Mexico might believe that new technology will be introduced into Mexico despite the lack of industrial property rights protection, with the local manufacture of benomyl by Promotora being taken as an example of success of Mexican policy. We submit that Mexico has suffered a net loss in the Promotora situation and in general (a viewpoint that would be shared by other innovative companies foreign to Mexico) for the following reasons:

1. Only inferior quality benomyl fungicide is available in Mexico;

2. Mexico has lost the expertise of Du Pont, as the innovator, in properly using the fungicide and developing new uses and formulations;

3. As a result of items 1 and 2, there is a severe underutilization of benomyl in Mexican agriculture; benomyl is now used on less than 10% of the crops that would benefit from such use;

4. Mexican agriculture suffers by virtue of items 1, 2, and 3;

5. The Mexican attitude shrinks the sales market for innovative companies. Too much shrinkage will discourage innovation; and

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[3] Based on this benomyl patent experience, we generally no longer file patent applications on agrichemicals in Mexico.

6. Mexico has undermined the incentive to introduce new technology, e.g. new agrichemicals, into Mexico. Why should an innovative company risk the investment of tens of millions of dollars to develop a new agrichemical, just to have it freely copied any time after introduction into Mexico?

We are hopeful that you will find this information useful in your trade discussions with Mexico.

Very truly yours,

Edwin Tocker

ET:mtg

THE DOW CHEMICAL COMPANY

MIDLAND, MICHIGAN 48640

August 2, 1982

Ms. Deborah Lamb
Room 2310
U.S. Department of Commerce
Washington, D.C. 20250

Dear Ms. Lamb:

At the meeting held on July 9, Dow agreed to provide you with an actual experience it encountered in Korea which shows the need for host countries to provide adequate patent protection.

The following is a condensed, but hopefully understandable narrative of one of our on-going problems in Korea.

In the 1960's Dow's Italian pharmaceutical subsidiary Lepetit discovered a potent new antibiotic called rifampicin that is used in the treatment of tuberculosis and other resistant life-threatening diseases. The product and process inventions were broadly filed and patents issued in most countries of the world. There is no patent protection in Korea, however. The product was not patentable under Korean law and the early processes were not filed in Korea because their value there had not been determined. A later improved process was filed in many countries, including Korea. Patent protection was obtained in most major countries of the world but denied in Korea.

Dow had been selling rifampicin in Korea through a distributor for a number of years at a level of 4-5 million dollars a year. In the late 1970's, the large Korean pharmaceutical company, Chong Kun Dang (CKD) obtained the know-how for producing the finished rifampicin (we believe illicitly) through a Swiss company (Trifar) who is believed to have gotten the information from a former Lepetit employee residing in Brazil. Upon obtaining the culture and the necessary know-how, CKD informed the Korean government that they had developed their own process for making rifampicin in Korea and asked that the borders be closed to imports. The Korean government closed its borders and Dow and Lepetit were then barred from selling their own invention in Korea, with no way to prevent CKD from making and selling the material.

The need for patent protection in this area is evident from a quotation from Mr. Lee of CKD as follows: "Even if our technology is coincidentally the same as Lepetit's, what is (Dow's) case? -- They have no patent here."

Lepetit has filed suit against CKD in Korea to enjoin CKD from further use of its technology to produce rifampicin and Dow Chemical Pacific has filed suit in Korea alleging damages of $500,000 lost profits resulting from the ban on imports and alleging CKD violated Korea's foreign exchange laws by purchasing of the manufacturing technology in Switzerland.

I am attaching a copy of an article from the March 19, 1982 Wall Street Journal which gives a more detailed account of the problem described above and short article from the Hong Kong Standard of March 9, 1982 on the same matter.

Very truly yours,

Raymond B. Ledlie

Raymond B. Ledlie, Director
U.S. Patent Operations
Patent Department

RBL/gek
Attch.

FROM DOW CHEM US 02/05/84 05:20 P.

# ndustrial Patents and the 'Third World

A decade ago, an employe retiring from ty's Gruppo Lepetit made a farewell it to coworkers at the pharmaceutical mpany's laboratory. While there, he opped his handkerchief into a fermentation vat. He retrieved it, pocketed it and idly walked out, carrying with him an portant secret for production of the comny's major product.

Sopped up by the handkerchief was the cterial strain used to produce an antiotic called rifampicin, an antituberculosis drug. Lepetit, a subsidiary of Dow emical Co. of the U.S., alleges that, in dition to the bacteria, the employe also aimed he had stolen technical docuents — everything another laboratory ould need to duplicate the product.

*This article is based on reports from Norman Thorpe in Seoul and James R. Schiffman in Hong Kong.*

Dow says that is exactly what hapned. In January, Lepetit and another ow subsidiary, Dow Chemical Pacific td., based in Hong Kong, filed separate its in Seoul accusing one of South Korea's largest pharmaceutical companies of legally using the rifampicin-production chnology stolen from Lepetit.

Officials of the Korean company, Chong Kun Dang Corp., acknowledge use of a wiss intermediary to obtain the production know-how but deny any wrongdoing. Chong Kun Dang is contesting both suits.

The dispute isn't expected to be settled soon. But it offers a fascinating glimpse of how Third World manufacturers sometimes indirectly acquire sophisticated technology, without which they say their countries can't attain the modernization and economic growth necessary to catch up with the developed world. The Dow case also provides an example of what Western businessmen see as the developing countries' lack of respect for the proprietary rights of inventors and for the heavy cost of research.

"Any of us are wary of bringing our latest technology into the country," says an American businessman in Seoul. Last October, U.S. Secretary of Commerce Malcolm Baldrige, on a visit to Korea, pressed the Koreans to review the patent protection they grant foreign products and processes. Patent and copyright infringement has long been a sore point for foreign companies operating in the Far East.

## A Protective Ban

The suits brought by Dow also shed light on specific problems associated with doing business in Korea. Rifampicin was developed by Lepetit in the 1960s, and before Chong Kun Dang started manufacturing it, import sales in Korea had reached $4 million to $5 million per year. Then, in 1980, when Chong Kun Dang entered the market, Korea placed a ban on imports— including those of Lepetit's Korean licensees.

Lee Chang Kee, director general of the Ministry of Health and Social Affairs' drug and food affairs bureau, says bans are applied against many foreign products to protect domestic manufacturers that develop

priate because, it says, the technology was acquired abroad.

Although Dow holds the largest equity of any foreign company in South Korea, with investments of more than $125 million, it lacked the clout to get the ban lifted. And if Dow loses this legal battle, it may find that protecting its rifampicin markets in other countries will prove more difficult, partly because the Koreans have started an export program. Chong Kun Dang says its price is competitive with Lepetit's.

The drug "is the most important pharmaceutical product" Dow has, says W.G. Davidson, commercial director for pharmaceuticals at Dow Chemical Pacific. Dow's world-wide rifampicin sales totaled $85 million in 1982.

Chong Kun Dang reported total 1982 sales of $53 million, the third largest in Korea's fiercely competitive pharmaceutical industry; the company's after-tax earnings were $3 million.

In one of the suits, Lepetit seeks an injunction against Chong Kun Dang's further use of what it claims is Lepetit technology to produce rifampicin. In the other suit, Dow Chemical Pacific seeks about $240,000 in damages from Chong Kun Dang for a profit loss resulting from the ban on rifampicin sales.

> *Dow's case exemplifies what Western businessmen see as the developing countries' lack of respect for the proprietary rights of inventors.*

The alleged theft of Lepetit's production secret was discovered several years ago when another Italian company, Archifar S.p.A., started making the drug. Lepetit eventually traced the information leak back to the retired lab worker, who, it says, confessed. Dow later acquired the new rival, and until the Korean company started making rifampicin, Dow says, there was only one other producer in the noncommunist world, Ciba-Geigy AG of Switzerland, which has a cross-licensing agreement with Lepetit.

When Chong Kun Dang applied for a license to produce rifampicin, Korean newspapers applauded the company for being only the fourth in the world to develop it. The company had been working on rifampicin since the mid-1970s, partly because Dow had never patented its production in Korea, says Chong Kun Dang's sales promotion manager, Kim Kwang-Lim.

Dow, on the other hand, says it did apply for a patent but that the Korean government rejected it.

"We got Lepetit's patent specifications filed in foreign countries, and got information on specifications from professional journals," says Mr. Kim. "Then we started research in our laboratory."

Next, the company canvassed laborato-

vice president, Lee Young-Ho, "you can find it easily."

Using all these sources, Chong Kun Dang was able to fabricate its own rifampicin, Mr. Kim says.

But patent specifications available to the public omit many important details, says Dow's Mr. Davidson. It would be "technically impossible" to fill these gaps in only a few years, he says.

Dow officials say Chong Kun Dang obtained rifampicin technology and a strain of the fermentation bacteria used in production from Tritar S.A., a Swiss company, in 1976. Marco Deleria, an officer at Tritar, and Pierfrancesco Campana, Tritar's attorney, attest in notarized statements that Tritar purchased the technology in Brazil, that the documents were in Italian and that the origin appeared to be Lepetit.

## Renegotiating a Price

Tritar officials also gave Dow copies of contracts, correspondence and other documents Tritar had exchanged with Chong Kun Dang, all of which, Dow says, indicates the Koreans were willing to pay Tritar $280,000. Because of technical problems that cropped up, as well as a claimed inability to get government approval of the $280,000 payment, Mr. Campana, the Tritar attorney, says Chong Kun Dang haggled over price and finally paid $128,000 in two installments through another Swiss company, Saica S.A.

Dow also accuses Chong Kun Dang and five of its officers of violating Korean foreign-exchange laws when the alleged purchase of Lepetit's technology was made in Europe. The Korean government requires approval to obtain foreign exchange before a company can buy technology abroad, but Dow says Chong Kun Dang circumvented this procedure.

But while Chong Kun Dang's Mr. Lee acknowledges that Tritar was the source of the technology and the bacteria sample, he denies that the company actually paid anything to Tritar. "The technology they gave us wasn't as good as we expected," he said. "So we didn't pay them."

Mr. Lee also denies that the rifampicin technology originally belonged to Lepetit. "Even if our technology is coincidentally the same as Lepetit's, what is (Dow's) case? ... They have no patent here," he says.

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# Imperial Chemical Buys 14.9% Stake in Holden

By a Wall Street Journal Staff Repo

LONDON—Imperial Chemical Ind PLC, which is offering to buy Arthur & Sons Ltd., said it has purchased the company's stock on the open mar

Under the British takeover r 14.9% interest is the maximum the own at this time, because its offer Holden has been referred to the Kingdom's Monopolies and Merg mission. The offer for Holden, [illegible]

TOTAL P. 2

# Dow Chemical sues Korean drug company

DOW Chemical Pacific Ltd has filed a series of legal actions in Korea claiming damages of 350 million won and accusing a Korean drug company, Chong Keun Dang Corp (CKD) of business interference and foreign exchange violations.

In addition, Dow has petitioned the Korean government to lift its import ban on the antibiotic drug Rifampicin, on the grounds the Korean manufacturer did not develop the technology as claimed but is using technology which derived from a Dow subsidiary company.

The criminal action charges CKD with business interference by circulating false facts or through fraudulent means, and violation of the foreign exchange law, by not obtaining Korean government approval to pay for the received technology with foreign exchange.

Dow Chemical Pacific said in a statement the injunction asks the court to suspend CKD's manufacture of Rifampicin on the grounds they are using Dow technology without permission. The damage claim seeks compensation for about US$500,000 of business lost since imposition of the import ban.

It said the ban had been imposed by the Korean Ministry of Health and Social Affairs (MOHSA) as an encouragement to the local production of Rifampicin (3-formyl rifamycin S.V.) by CKD.

CKD recently began manufacture of Rifampicin in Korea and announced publicly that its production was based on new technology it had developed in Korea, the Dow statement said.

In keeping with this claim, MOHSA granted an import ban on competitive products in July, 1980, it added. — Reuter

HONG KONG STANDARD

Tuesday, 9 March 1982

PACIFIC TIMES
TUESDAY, MARCH 16, 1982
Number 41

## DOW CHEMICAL PACIFIC FILES RIFAMPICIN LAWSUITS IN KOREA

*One of the most important issues faced by the Pharmaceutical business in the Pacific Area, is the infringement of the Rifampicin patent. Dow has every intention to follow through each and every legal avenue in the protection of its technology.*

Seoul – Dow Chemical Pacific Ltd. and Gruppo Lepetit S.p.A. have filed a series of legal actions in Korea claiming damages of 350 million Won and accusing a Korean drug company of business interference and foreign exchange violations. In addition, Dow has petitioned the Korean government to lift its import ban on the antibiotic drug rifampicin on the grounds that the Korean manufacturer did not develop the technology as claimed but is using technology which had been stolen from a Dow subsidiary company.

The criminal action charges Chong Keun Dang Corp. (CKD) with: Business interference by circulating false facts through fraudulent means; and violation of the Foreign Exchange Law, by not obtaining Korean Government approval to pay for the stolen technology with foreign exchange. The injunction asks the court to suspend CKD's manufacture of rifampicin on the grounds that they are using Dow Technology without permission. The damage claim seeks compensation for approximately US$500,000 of business lost since imposition of the import ban.

The ban had been imposed by the Korean Ministry of Health and Social Affairs (MOHSA) as an encouragement to the local production of rifampicin (3-Formyl Rifamycin S.V.) by CKD. CKD recently began manufacture of rifampicin in Korea and announced publicly that its production was based on new technology it had developed in Korea. In keeping with this claim, MOHSA granted an impor ban on competitive products in July, 1980.

Dow had been selling the drug for several year in Korea until the ban was imposed. Rifampicin wa invented in the 1960's by Dow's Italian subsidiary Gruppo Lepetit S.p.A. for treatment of tuberculosi and certain other diseases.

Commenting in Hong Kong on the lawsuits, Dow's Pacific Area Pharm[illegible] Director William G. Davidson said, "[illegible] one occasion during the past year, [illegible] petitioned MOHS to lift the ban. We presented firm evidence that CK did not develop the new technology as it claimed bu had purchased the technology from a company i Switzerland. The technology purchased was th same technology that had been stolen from Lepeti It is now reported that CKD is exporting rifampic and is discussing licensing of this stolen technolo to companies outside Korea. As this situation co tinues to remain unaddressed by the Korean Gover ment, Dow is left with no alternative but to institu legal action to protect its legitimate interests."

Davidson added, "Dow is one of the ma foreign investors in Korea and as such we are dee concerned that an agency of the Korean governme may be using its discretionary authority to prote a local industry where there is evidence of impro acquisition of technology."

E. I. DU PONT DE NEMOURS & COMPANY
WILMINGTON, DELAWARE 19898

LEGAL DEPARTMENT

August 9, 1982

Ms. Deborah A. Lamb
Room 2310
U.S. Department of Commerce
14th and Constitution Ave., N.W.
Washington, D.C. 20230

Dear Ms. Lamb:

Patent/Trademark Problems in Taiwan

Thank you very much for your letter of July 14, 1982. To date, Du Pont has encountered a number of problems in Western Europe, particularly in France, which are the result of efforts by the Taiwanese to export our fungicides to Europe. The problem results because either the product itself or its use as an agricultural fungicide is covered by unexpired Du Pont patents in the countries in question.

Du Pont produces and sells two important agricultural fungicides in Europe, among others: Benlate® and Delsene®. The active ingredient in Benlate® is benomyl, and this compound and fungicidal compositions in which it is an active ingredient are covered by numerous European patents. The active ingredient in Delsene® is carbendazim, and our patents cover the use of carbendazim as an agricultural fungicide.

Our patents relating to these products in Taiwan expired in April, 1982, but our patents in Western European countries, for the most part, run through May, 1987. Despite our patents, ever since the Taiwanese acquired the capability to produce these products, they have persisted in offering the products for sale in countries where we have unexpired patents. The following attachments will provide some evidence of the attempts by the Taiwanese to offer benomyl and carbendazim for sale. While each offer may not, in and of itself, amount to a technical infringement of our patents, the availability of the products indicates a lack of respect for our patent rights. Those who purchase from the Taiwanese and distribute the products for use become the actual infringers.

Attachment 1: Carbendazim offered by Alfa Co., Ltd. to Burts & Harvey, Ltd., United Kingdom - June 18, 1981.

Attachment 2: Carbendazim offered by Beritling Merchandise Co. to Du Pont de Nemours (Belgium) - June 18, 1981.

Attachment 3: Carbendazim and Benomyl offered by Moralburg Trading Corp. to an agrichemical distributor in Austria - April 27, 1981.

Attachment 4: Advertisement from "European Chemical News", April 26, 1982 showing the availability of benomyl from Tong Sing Chemicals Co., Ltd.

Attachment 5: Carbendazim offered by Fulon Chemical Industrial Co., Ltd. to a French company. Note the reference to the expiration of Du Pont's Taiwan patent - June 10, 1982.

Attachment 6: Letter from Du Pont to Fulon - July 7, 1982.

Attachment 7: Advertisement from "Farm Chemicals Handbook" 1981 in which Equitable Trading Company, Ltd. is offering carbendazim and benomyl.

The foregoing information provides a fairly clear indication of Taiwan's presence in the agrichemicals marketplace. Should you have any questions concerning the attachments or require any additional information, please don't hesitate to contact me.

Very truly yours,

Charles E. Krukiel

Charles E. Krukiel

CEK/if
Attachments

cc: Michael K. Kirk
Asst. Commissioner for External
Affairs
U.S. Patent & Trademark Office
Washington, D.C. 20231

H. B. Burton, Bio.
bcc: T. P. Killheffer, Legal
R. L. Moore, Int'l.
E. N. Tolson, Bio.
S. J. Mobley, Legal, Wash.
D. M. Kerr, Legal
D. G. B. Gamble, Legal, DUFE

I've sent a telex to F.J. Berry on this subject. 29 July

cc F.J.K. ~~[illegible]~~ : ATTACHMENT 1
D.P. McATILLY
F. ORTOLA, Legal

**ALFA COMPANY LIMITED**

606 HAPPY BUILDING
100 CHUNG SHIAO EAST ROAD. SECTION 2
TAIPEI, TAIWAN, REPUBLIC OF CHINA

TELEX
25041 BSTEX
TELEPHONE
393-0841
393-1972

雅泉有限公司
台北市忠孝東路二段一〇〇號
[illegible]

Re: AN Trends

Burts and Harvey Ltd.
(Lankro Agrochemicals Division)
Crabtree Manorway
Belvedere
Kent DA17 6BQ
GREAT BRITAIN

July 13, 1981

Kind attention: Mr. J. R. Muller
Export Manager

Dear Sirs,

We are a leading importer and exporter for various kinds of agro pesticides for years with a long established sales channel in Taiwan, and we learn to know that you are maker/formulator of pesticides.

Since pesticides is our common language, therefore we would like to contact you for building a trade relationship with you in order to build our market for your products and/or to supply you with some pesticides available from Taiwan.

Importation

To enable us to study the local market for your products, please kindly send us with your completed product-list, so that we can work our enquiries with you.

Exportation

We are in position to supply you with following pesticides, both in technical grades and its formulations.

Insecticides: Phosdrin, Trichlorfon, Monocrotophos, DDVP, MIPC, Methamidophos

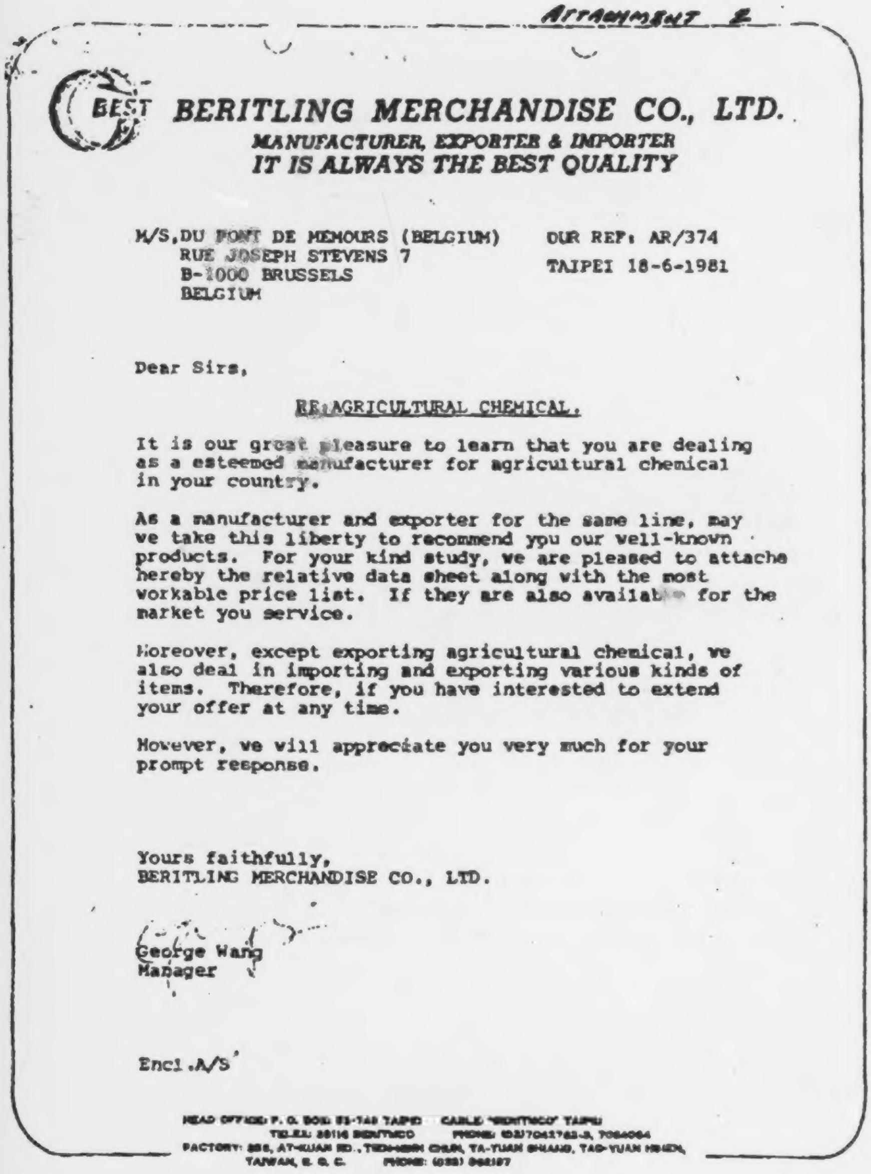
Fungicides: Captan, Carbendazim, Captafol

Herbicides: Paraquat, Butachlor, Alachlor, Propachlor, Nitrofen, CNP

We wait to receive your early reply.

Very truly yours,
ALFA COMPANY LIMITED

MAURICE HUANG
MANAGING DIRECTOR



ATTACHMENT 2

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B-1000 BRUSSELS
BELGIUM

OUR REF: AR/374
TAIPEI 18-6-1981

Dear Sirs,

RE:AGRICULTURAL CHEMICAL.

It is our great pleasure to learn that you are dealing as a esteemed manufacturer for agricultural chemical in your country.

As a manufacturer and exporter for the same line, may we take this liberty to recommend you our well-known products. For your kind study, we are pleased to attache hereby the relative data sheet along with the most workable price list. If they are also available for the market you service.

Moreover, except exporting agricultural chemical, we also deal in importing and exporting various kinds of items. Therefore, if you have interested to extend your offer at any time.

However, we will appreciate you very much for your prompt response.

Yours faithfully,
BERITLING MERCHANDISE CO., LTD.

George Wang
Manager

Encl.A/S

HEAD OFFICE: P. O. BOX [illegible] TAIPEI CABLE "[illegible]" TAIPEI
TELEX: [illegible] PHONE: [illegible]
FACTORY: [illegible], AT-KUAN RD., [illegible] CHUN, TA-YUAN SHIANG, TAO-YUAN HSIEN,
TAIWAN, R. O. C. PHONE: (033) [illegible]

Attachment 2-1

**BERITLING MERCHANDISE CO., LTD.**
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TAIWAN, R. O. C.

CABLE: "BERITMCO" TAIPEI
TELEX: 28110 BERITMCO
PHONE (02) 7064064
7042762-3

## QUOTATION

Offered To: DU PONT DE MEMOURS (BELGIUM)
RUE JOSEPH STEVENS 7
B-1000 BRUSSELS
BELGIUM

Date 18-6-1981
Our Ref 810412

| Code | Description of Merchandise | Packing | Price | Unit | Remarks |
|---|---|---|---|---|---|
| | AGRICULTURAL CHEMICAL. | | FOB TAIWAN PORT | | |
| | PARAQUAT 24% w/w Dichloride<br>200 liter/iron drum/11.2' | | US$2.30 | liter | |
| | MAZODRIN 55% Solution<br>200 liter/iron drum/11.2' | | 5.61 | " | |
| | CARBENDAZIM 50% W.P. | | 8.42 | kg | |
| | CARBENDAZIM 95% Technical<br>100 kgs/iron drum/11.2' | | 14.31 | " | |
| | TRICHLORFON 80% W.P. | | 3.98 | " | |
| | TRICHLORFON 95% Technical<br>100 kgs/iron drum/11.2' | | 4.29 | " | |

REMARK:
1.Shipment: Within 30 days after receipt of your L/C.
2.Payment: By irrevocable & confirmed L/C at sight in our favour.
3.Validity: Subject to our final confirmation.

BERITLING MERCHANDISE CO., LTD.

George

George Wang, Manager

ATTACHMENT 3

德城行有限公司
台北市新生北路二段31號之1三[illegible]大廈600室
TEL:(02)551-8022, 551-8023

**MORALBURG TRADING CORPORATION**

ROOM 600, SAN CHIN BUILDING, 31-1, SIN-SHENG NORTH ROAD, SECTION 2, TAIPEI, TAIWAN, R.O.C.
TEL: (02)551-8022, 551-8023 CABLE: "MORABUG" TAIPEI. TELEX: 23242 MORABUG

YOUR REF. __________ OUR REF. __________ DATE: April 27, 1981

Avenarius Chemsche Fabrik
Gesellschaft m.b.H
1015 Wien, Postf. 22,
1 Burgring 1
Austria

EINGEGANGEN
9. Mai 1981
Erl. ............

cc: WCR
DPM
DA Hoes [illegible]

Avenarius is requesting price quotes on benomyl + carbendazim. Should have reply by early June.
JKR 5/23

Dear Sirs,

Re: Agricultural Pesticides

As a leading pesticides importer-exporter in Taiwan, we are very interesting to import the captioned products. If you are in a position to supply, kindly please send us your product list and technical data for our evaluation.

In addition, we are exporting the following products both with technical grade and formulations:

Herbicides - Paraquat, Alachlor, Butachlor
Fungicides - Carbendazim, Benomyl, PCP-Na
Insecticides - Monocrotophos, MIPC, Methamidophos

If you have found some products are of interesting to you, please feel free to contact with us.

In case, you are not the product producer or importer, please direct us to the right manufacturers or importers.

Many thanks for your kind attention and look forward to hearing from you soon.

Sincerely yours,
MORALBURG TRADING CORPORATION

Edgar Linn
Product Development Manager

EL/mjs

[illegible] April 26 1982

ATTACHMENT 4

# classified advertisements

OOM 1110, QUADRANT HOUSE, THE QUADRANT, SUTTON, SURREY SM2 5AS, UK. TEL: 01-661 3500 EXT. 8187. TELEX: 892084

## APPOINTMENTS

### BUSINESS DEVELOPMENT

Ward, Blenkinsop is an expanding medium-sized company manufacturing speciality chemicals.

Our ambitious plans require the strengthening of our business development team.

The successful candidate will make contact with senior people in industry, will identify new market opportunities and will liaise with the company technical department to bring the opportunities to commercial reality. The job involves travel in the UK and abroad.

Applicants should be about 30 years old with an honours degree in one of the sciences, industrial experience, a knowledge of organic chemistry and a business qualification would be advantageous.

The Company offices are pleasant and modern, situated on the N.W. outskirts of London.

Salary is negotiable and prospects are good.

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Ward Blenkinsop Co. Limited

WBB

Producers of Fine [illegible] Chemicals and [illegible] Pharmaceutical Intermediates

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is sought for further expansion of the Company's activities.

This is a new position and it presents an excellent opportunity for an enthusiastic and experienced person, aged up to 35, to pursue his/her activities in an individual manner, and in an unrestricted and pleasant environment.

The successful candidate can expect every encouragement in the form of career prospects and benefits. Assistance in re-location if necessary.

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Ron Colling
R. W. Colling ([illegible]) Ltd.
Red Cow Yard
Knutsford
Cheshire WA16 [illegible]

### A leading producer of petrochemical products is looking for a

## MARKETING SPECIALIST

The incumbent, who will be based in Switzerland, will be responsible for marketing a group of specialty chemicals products throughout Europe, the Middle East and Africa.

He/she will be in charge of budget preparation, marketing plans and technical service for this group of products.

The ideal candidate, who will be 35-40 years old, will have a good background in chemistry or chemical engineering with preferably several years' experience in technical service and/or market development. He/she should also have a strong international marketing background at management level.

Fluency in English is a must, in addition to a good working knowledge of at least one other European language.

The Company offers excellent salary and social benefits.

Candidates are invited to send comprehensive curriculum vitae, references and salary history to Box Number: 3116.

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| CAPTAFOL | METHOMYL |
| CAPTAN | MONOCROTOPHOS |
| FOLPET | PHOSPHARMIDON |
| MSMA | PROPOXUR |

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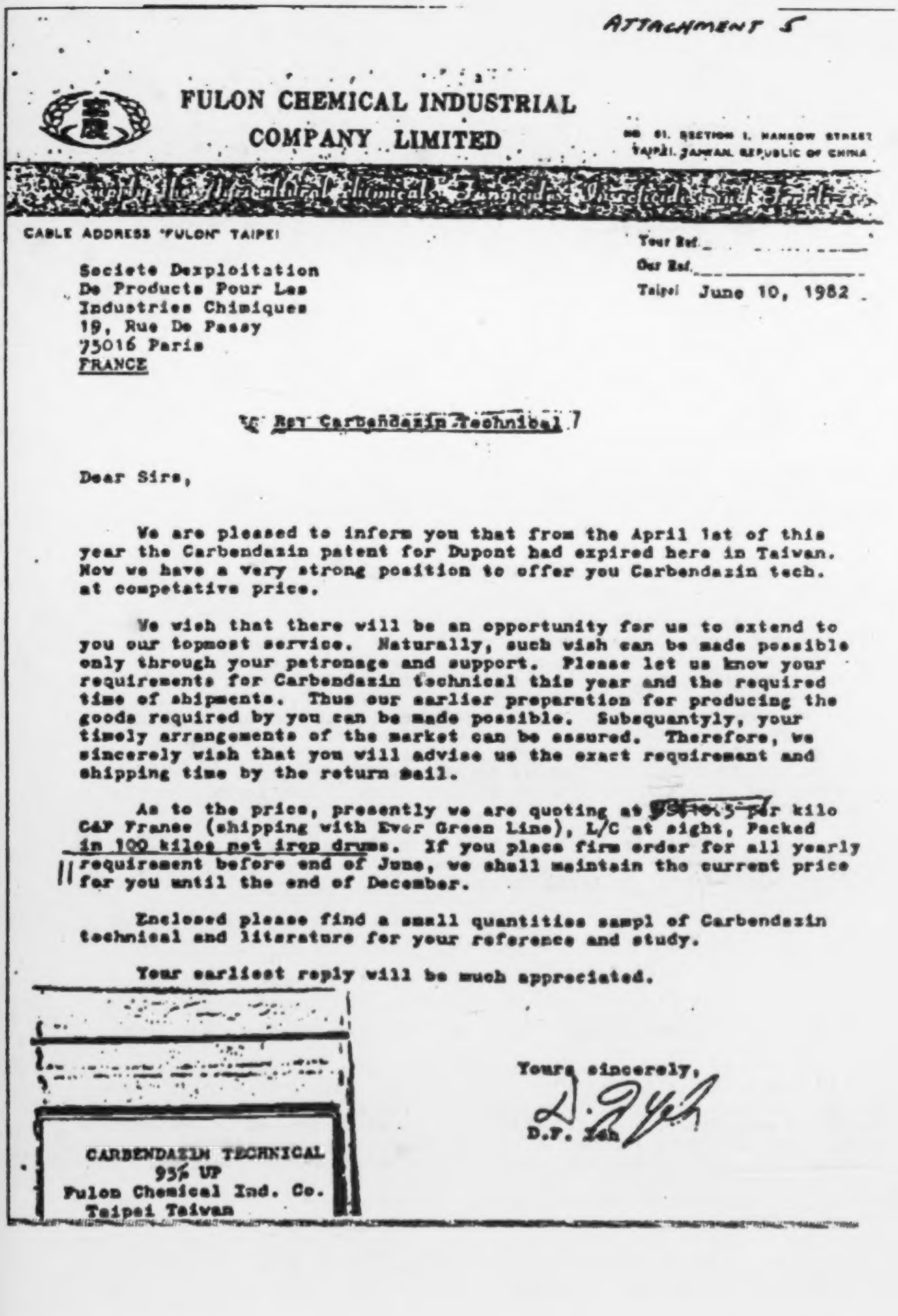
CABLE: MYRONHSU TAIPEI
TELEX: 20923, 21616 MYRONHSU

**TELEX ADS TO ECN ON: 892 084**



ATTACHMENT 5

FULON CHEMICAL INDUSTRIAL
COMPANY LIMITED

No. 61, SECTION 1, HANKOW STREET
TAIPEI, TAIWAN, REPUBLIC OF CHINA

We supply the Agricultural Chemicals, Fungicides, Insecticides and Fertilizers

CABLE ADDRESS "FULON" TAIPEI

Your Ref.
Our Ref.
Taipei June 10, 1982

Societe Dexploitation
De Products Pour Les
Industries Chimiques
19, Rue De Passy
75016 Paris
FRANCE

Re: Carbendazin Technical

Dear Sirs,

We are pleased to inform you that from the April 1st of this year the Carbendazin patent for Dupont had expired here in Taiwan. Now we have a very strong position to offer you Carbendazin tech. at competative price.

We wish that there will be an opportunity for us to extend to you our topmost service. Naturally, such wish can be made possible only through your patronage and support. Please let us know your requirements for Carbendazin technical this year and the required time of shipments. Thus our earlier preparation for producing the goods required by you can be made possible. Subsequantyly, your timely arrangements of the market can be assured. Therefore, we sincerely wish that you will advise us the exact requirement and shipping time by the return mail.

As to the price, presently we are quoting at ~~US$10.5 per~~ kilo C&F France (shipping with Ever Green Line), L/C at sight, Packed in 100 kilos net iron drums. If you place firm order for all yearly requirement before end of June, we shall maintain the current price for you until the end of December.

Enclosed please find a small quantities sampl of Carbendazin technical and literature for your reference and study.

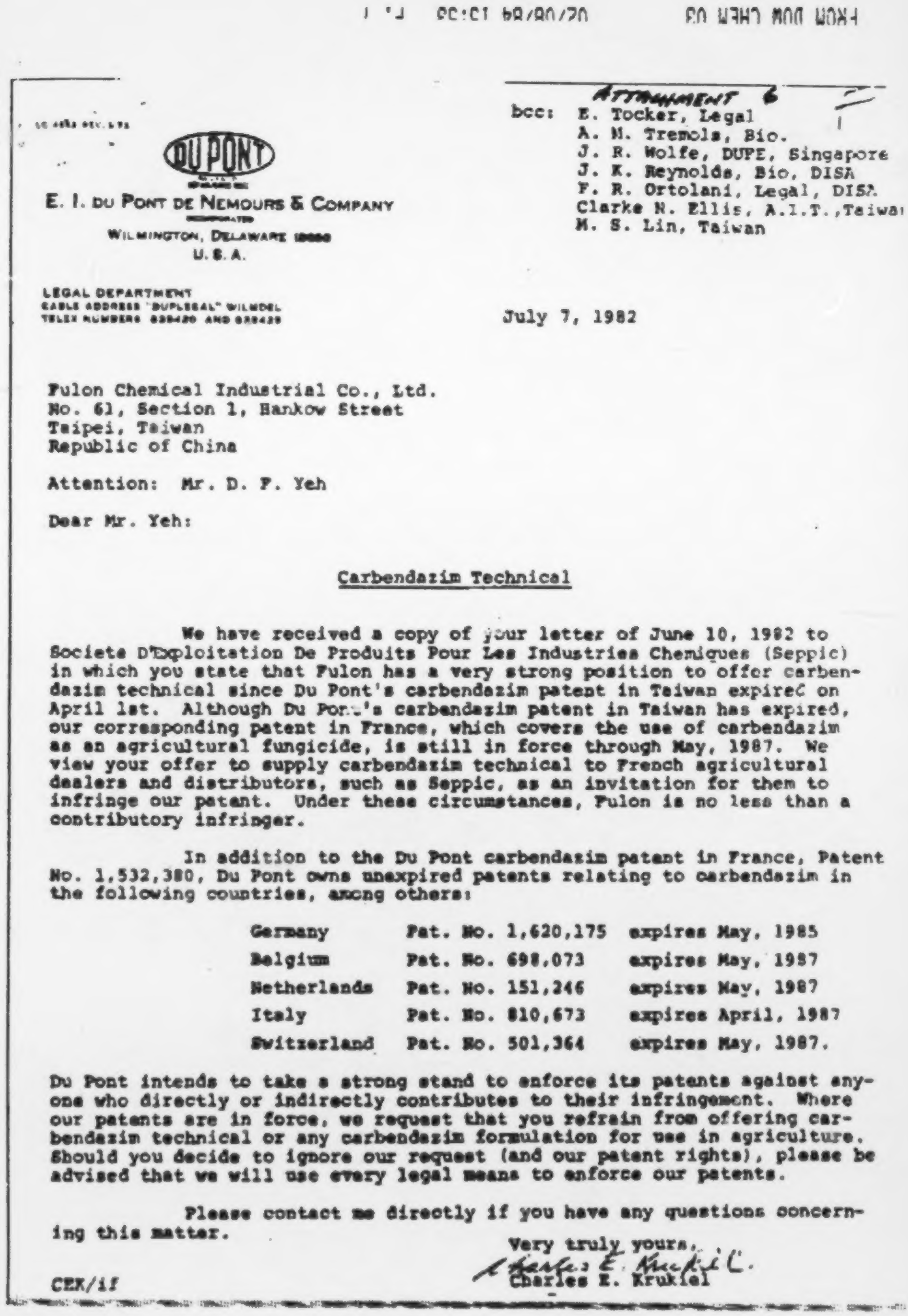
Your earliest reply will be much appreciated.

Yours sincerely,

D.F. Yeh

D.F. Yeh

CARBENDAZIM TECHNICAL
95% UP
Fulon Chemical Ind. Co.
Taipei Taiwan



FROM DOW CHEM 03 02/08/84 13:59 P. 1

ATTACHMENT 6

bcc: E. Tocker, Legal
A. M. Tremols, Bio.
J. R. Wolfe, DUPE, Singapore
J. K. Reynolds, Bio, DISA
F. R. Ortolani, Legal, DISA
Clarke N. Ellis, A.I.T.,Taiwa
M. S. Lin, Taiwan

DU PONT

E. I. du Pont de Nemours & Company
Wilmington, Delaware
U.S.A.

LEGAL DEPARTMENT
CABLE ADDRESS "DUPLEGAL" WILMDEL
TELEX NUMBERS 835420 AND 835420

July 7, 1982

Fulon Chemical Industrial Co., Ltd.
No. 61, Section 1, Hankow Street
Taipei, Taiwan
Republic of China

Attention: Mr. D. F. Yeh

Dear Mr. Yeh:

### Carbendazim Technical

We have received a copy of your letter of June 10, 1982 to Societe D'Exploitation De Produits Pour Les Industries Chemiques (Seppic) in which you state that Fulon has a very strong position to offer carbendazim technical since Du Pont's carbendazim patent in Taiwan expired on April 1st. Although Du Pont's carbendazim patent in Taiwan has expired, our corresponding patent in France, which covers the use of carbendazim as an agricultural fungicide, is still in force through May, 1987. We view your offer to supply carbendazim technical to French agricultural dealers and distributors, such as Seppic, as an invitation for them to infringe our patent. Under these circumstances, Fulon is no less than a contributory infringer.

In addition to the Du Pont carbendazim patent in France, Patent No. 1,532,380, Du Pont owns unexpired patents relating to carbendazim in the following countries, among others:

| | | |
|---|---|---|
| Germany | Pat. No. 1,620,175 | expires May, 1985 |
| Belgium | Pat. No. 698,073 | expires May, 1987 |
| Netherlands | Pat. No. 151,246 | expires May, 1987 |
| Italy | Pat. No. 810,673 | expires April, 1987 |
| Switzerland | Pat. No. 501,364 | expires May, 1987. |

Du Pont intends to take a strong stand to enforce its patents against anyone who directly or indirectly contributes to their infringement. Where our patents are in force, we request that you refrain from offering carbendazim technical or any carbendazim formulation for use in agriculture. Should you decide to ignore our request (and our patent rights), please be advised that we will use every legal means to enforce our patents.

Please contact me directly if you have any questions concerning this matter.

Very truly yours,

Charles E. Krukiel
Charles E. Krukiel

CEK/if

ATTACHMENT 7

佳輝貿易股份有限公司

**EQUITABLE TRADING COMPANY, LTD.**

*Manufacturers · Importers · Exporters*

**We are the Top Exporter and Supplier in Taiwan of Pesticide Products**

**Technical Grade and Formulations:**

- HERBICIDE — Paraquat, Alachlor, Butachlor, Nitrofen
- INSECTICIDE — Monocrotophos, Mevinphos, MIPC, BPMC and Methamidophos
- FUNGICIDE — Carbendazim, Benomyl and Captan

Also processes for manufacture of PARAQUAT and MONOCROTOPHOS available

**EQUITABLE TRADING COMPANY, LTD.**

[illegible] TAIPEI TAIWAN REPUBLIC OF CHINA

CABLE ADDRESS
EQUITABLE TAIPEI

TELEX
[illegible]

TEL: 5 LINES:
[illegible]

---

TIME TO ORDER:

**1981 Spray Compatibility Chart and Herbicide Compatibility Chart**

$1.50 Each $1.80 Both
Foreign Countries $2.75 Each

*Quantity Prices available upon request*

Postage and Handling: USA.....$1.00
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**READER SERVICE DEPT.**
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**Willoughby, Ohio 44094**

## AMERICAN IRON AND STEEL INSTITUTE

The American Iron and Steel Institute is pleased to present the following comments for inclusion in the record of the Subcommittee on International Trade of the Senate Committee on Finance hearings on possible renewal of the Generalized System of Preferences (GSP). The American Iron and Steel Institute is the principal trade association of the U.S. steel industry. Its membership includes 58 domestic steel companies accounting for about 87% of the raw steel produced in the United States.

The AISI supports the renewal of GSP authority as long as such renewal provides for the statutory exclusion of all steel products. When first instituted as a result of the Trade Act of 1974, the GSP program interpreted the intent of Congress by excluding steel mill products from the list of eligible articles under the program. At the present time, when the domestic steel industry is confronted by near record import market penetration and continued serious damage from import competition (much of it unfair), this exclusion must not only be continued, but further strengthened and clarified.

The current statutory exclusion, contained in Section 503 (c) (1) of the Trade Act of 1974, specifies that, "The President may not designate any article as an eligible article ... if such article is within one of the following categories of import sensitive articles ... (D) import sensitive steel articles." This language reflected the concerns of the Senate Finance Committee, as expressed to the Executive Branch, that steel and other import sensitive products should be excluded from the GSP. The products actually excluded as "import sensitive steel articles" have been steel mill products (AISI categories 1-37). The Administration's renewal proposal (S.1718) recommends no change in the list of statutory exclusions.

We believe that it is absolutely vital that steel mill products continue to be excluded from GSP eligibility, and the Administration has assured us that this will indeed be the case. But we would also point out that other iron and steel products from AISI product categories 38-59 have been included as eligible products, and many of these items (e.g., wire products and fabricated structurals) are only slightly advanced from the steel mill products which have been excluded from the program. Hence, the negative impact on the basic steel industry, which the government attempted to avoid (in response to Congressional concerns) by excluding steel mill products, has nevertheless occurred. The allowance of GSP imports from so-called LDCs of steel wire, industrial fastenters, fabricated structurals and other "downstream" steel products has had a negative impact on our customers and has therefore reduced the demand for the domestic steel mill products which our member companies produce.

The increasing threat of downstreaming (including downstream dumping), the advanced technological state of LDC steel facilities, and the continued import senstitivity of the entire steel industry are the three major reasons why the case for excluding from GSP all iron and steel imports is even stronger today than it was during the MTN. The AISI therefore urges that the exclusion pertaining to "import sensitive articles of steel" be amended to read: "all articles of steel." The import sensitivity of the steel industry should no longer be a matter of administrative discretion. In recognition of this fact, all iron and steel products as specified in AISI categories 1-59 should be excluded by statute as eligible articles under GSP when and if GSP is renewed.

The purpose of the GSP program was to give a unilateral trade concession to our LDC trading partners - in the form of duty elimination - in order to foster their economic development. The AISI supports this concept. However, as regards steelmaking in particular, "advanced developing" countries (ADCs) such as Brazil, South Korea and Taiwan cannot be considered to be in need of

GSP preferences to enable them to compete in the U.S. market. The continued exclusion from GSP of steel products from these countries is not just a matter of the domestic industry's import sensitivity. It is also dictated by the fact that the installed steel capacity in these countries is in all cases technologically advanced and fully competitive with the steel industries of the developed world.

Indicative of the fact that such ADC steel producing countries are fully competitive in U.S. markets and not in need of any additional benefits is the fact that imports from the three major steel exporting beneficiary countries - Brazil, South Korea and Taiwan - as a percentage of our market have increased an estimated 170 percent in the four years 1979-82. And U.S. imports from Mexico, another major ADC steel producer and GSP beneficiary, increased by nearly 480 percent from 1982 to 1983.

Moreover, in recent years the Commerce Department and U.S. International Trade Commission have found that Brazil, South Korea and Taiwan have all violated U.S. trade laws and injured domestic producers by selling steel products that were subsidized or traded at less than fair value. Those familiar with how developing country steel industries have evolved have not been surprised. Since government ownership, subsidization and direction of all LDC steel industries is the norm, real production costs are not necessarily reflected in export prices. Instead, the profit motive becomes secondary to other goals such as employment, balance of payments and foreign exchange generation.

As a result, there has been a legacy of unfairly traded steel products from so-called developing countries which has led us to conclude that it is neither appropriate nor necessary to give any developing country additional incentives to ship iron or steel products to the U.S. This is true not only for such ADCs as Brazil, South Korea and Taiwan, whose iron and steel industries can in no way be considered as still "developing", but also for countries such as Trinidad and Tobago, whose wire rod facility has duty-free treatment under the CBI despite being fully competitive. The Commerce Department, we might add, has already determined that steel products from this particular facility have been dumped and subsidized in the U.S. market. In addition, statistics show clearly that all LDC steel producers (not just the ADCs) can compete successfully in the U.S. market without special preferences. Steel imports from non-EC, Japanese and Canadian suppliers (primarily ADC imports) as a percent of apparent consumption have increased from 1.9 percent (1975-77) to 4.2 percent (1980-82) to an estimated 7.6 percent in 1983.

The AISI therefore has consistently supported the concept of GSP graduation for beneficiaries (and especially the "advanced developing" countries) in products and sectors (e.g., steel) where such countries are already fully competitive. In supporting the overall concept of graduation, we have also endorsed fully the idea that such countries must be encouraged to liberalize their own market access. The Administration proposal would draw a closer link between these two goals by giving increased weight to: (1) the development level of individual beneficiaries, and (2) the extent to which the beneficiary country has assured the United States that it will provide equitable and reasonable access to its markets and basic commodity resources.

Specifically the Administration proposal would exempt the least developed developing countries from any product-based competive need test, while granting authority to subject advanced developing countries to lower product-based competitive need limits (i.e., 25 percent of total imports or $25 million worth of imports, down from 50 percent and an expected $58 million in 1984). It would also grant authority to waive product-based competitive need limits for any GSP beneficiary (whether least developed or advanced developing) if it is deemed to be in the national interest to do so. In making such a decision, the interagency GSP Subcommittee would presumably pay more attention than is presently the case to the degree of market access a beneficiary was providing to U.S. exports.

The Administration proposal raises the question whether an advanced developing country should continue to receive duty-free GSP preferences even if it is fully competitive in a given product category provided it agrees to liberalize access to its markets. While we strongly support government policies to reduce foreign trade barriers, we question the degree to which GSP should be used to accomplish this goal. In our view a beneficiary developing country (especially an advanced developing country) should be graduated as soon as it is fully competitive in a given product category.

With respect to the Administration's basic approach as outlined in the renewal proposal, we believe that, in determining eligibility, factors such as: (1) the beneficiary country's competitiveness in a particular product or sector, and especially (2) the anticipated impact of GSP treatment on United States producers of like or competitive products should be more important than a beneficiary's overall level of development and openness of markets. One way to provide greater safeguards for import sensitive products would be to suspend from eligibility any article which is the subject of a preliminary antidumping (AD) or countervailing duty (CVD) finding, and to remove from eligibility any article which is the subject of an AD or CVD order. We therefore urge that such a provision be added to the Administration's proposal.

The American Iron and Steel Institute expresses its appreciation for this opportunity to give its views to the Subcommittee on International Trade of the Senate Committee on Finance on the possible renewal of GSP authority.

BEFORE
UNITED STATES SENATE

COMMITTEE ON FINANCE
SUBCOMMITTEE ON TRADE

# STATEMENT OF THE BOARD OF FOREIGN TRADE REPUBLIC OF CHINA ON TAIWAN ON RENEWAL OF THE UNITED STATES GENERALIZED SYSTEM OF PREFERENCES

Coordination Council for
North American Affairs
4301 Connecticut Avenue, N.W.
Washington, D.C. 20008
(202) 686-6400

February 17, 1984

## TABLE OF CONTENTS

PAGE

SUMMARY . . . . . . . . . . . . . . . . . . . . . . . . . . i

I. Introduction . . . . . . . . . . . . . . . . . . . . . . . 1

II. GSP Provides Substantial Economic Benefits to the United States . . . . . . . . . . . . . . 1

  A. GSP Has Spurred U.S. Exports to Beneficiary Countries . . . . . . . . . . . . . 1

  B. GSP Has Provided U.S. Consumers With Substantial Savings . . . . . . . . . . . . . . 2

  C. GSP Has Enabled Beneficiary Countries to Contribute to the Maintenance of an Open and Fair World Trading System . . . . . . . . 4

    1. ROC Tariff Reductions . . . . . . . . . . . . . 4

    2. ROC Measures to Eliminate Counterfeiting . . . 4

III. Maintenance of GSP Serves a Critical Foreign Policy Objective of the United States . . . . . . . . . . . . . . . . . . . . . 7

IV. GSP Has Played an Important Role in the Economic Development of Beneficiary Countries . . . . . . . . . . . . . . . . . . . . . . . . 9

V. GSP Law in its Current Form Provides Prompt and Effective Protection for U.S. Industries and Eliminates GSP from Products from Countries Which have Demonstrated Competitiveness in the Products . . . . . . . . . . . . . . . . . . . . . . . 11

  A. GSP Imports Represent an Insignificant Share of Total Imports or Consumption . . . . . . . 11

TABLE OF CONTENTS
(continued)

PAGE

B. Statutory Exclusions Eliminate a Substantial Amount of Trade from GSP Eligibility Ab Initio . . . . . . . . . . . . . 12

C. Competitive Need Exclusions . . . . . . . . . . . . 13

D. Discretionary Graduation . . . . . . . . . . . . . 14

VI. Imposition of New, Substantial Restrictions on GSP Use Would be Unwarranted and Damaging . . . . . . . . . . . . . . . . . . . . . . . 17

A. Effects of a Lowered Percentage Limit Would be Severe Without Modification of the De Minimis Amount . . . . . . . . . . . . . . . . 18

B. Country Graduation Serves No Policy Objective and Would be Unnecessarily Punitive . . . . . . . . . . . . . . . . . . . . . 19

VII. Increased Graduation and Restrictions on Major Beneficiaries Have Not Resulted and Will Not Result in Increased GSP Benefits for Other Beneficiaries . . . . . . . . . . . . . . . . . 19

VIII. Presidential Waiver Authority Can be Used to Promote The Objective of the GSP Program as Well as Make it More Responsive to Actual Market Conditions . . . . . . . . . . . . . . . . . . 21

IX. If Changes Are Made in GSP, a Sufficient "Grace Period" Should be Included to Allow for Necessary Negotiations and Adjustments in Countries Affected by Lower Limits . . . . . . . . . 23

X. Conclusion . . . . . . . . . . . . . . . . . . . . . . . 24

## TABLES

Table No.

I. U.S. Exports to the ROC, 1976-1983

II. Purchases of ROC Procurement Missions to the United States, 1978-1983

III. Indices, ROC Total, GSP and Non-GSP Export Growth, 1976-1983

IV. History of Petitions Filed in GSP Annual Product Reviews, 1980-1982

V. History of Product Graduation Through Failure to Redesignate ROC Products as GSP Eligible

VI. Value of Trade Affected by Redesignation Graduations

VII. Total and ROC Losses to Competitive Need and Discretionary Graduation 1976-1982

## SUMMARY

The Board of Foreign Trade (BOFT) of the Republic of China on Taiwan (ROC) urges that the United States Generalized System of Preferences (GSP) be renewed without severe restrictions or reductions in duty-free trade. Experience under the GSP program has demonstrated that both the United States and the beneficiary countries derive substantial benefit from the program. The United States has secured increased export sales in beneficiary countries, consumer savings, and an increased commitment by beneficiary countries to an open and fair international trading system. U.S. exports to the ROC alone grew from $1.6 billion in 1976, the first year under GSP, to nearly $4.3 billion in 1983--an increase in many ways attributable to the GSP program. GSP duty-free treatment was provided to about $3 billion of ROC trade which represents over 4% of ROC GNP; much of this trade would be non-competitive in the U.S. market if GSP treatment were removed from it, severely damaging the ROC economy.

The first ten years of the program's operation has also demonstrated that the GSP system, as it is currently structured and administered, provides prompt and effective protection for U.S. industries and eliminates GSP benefits for specific countries on articles which are internationally competitive. In 1983, due to these existing limits, nearly as much ROC trade was denied duty-free treatment as received duty-free treatment. GSP imports represent a minimal fraction of total U.S. imports and

apparent consumption (less than 1%) to begin with, and existing safeguards have provided adequate protection when needed.

Imposition of new, substantial restrictions on the GSP program would be unwarranted and would undermine the very objectives of the program. Past experience, corroborated by several objective studies, has demonstrated that the only result of removing benefits from countries having substantial GSP trade has been to shift that trade to developed countries such as Japan, and not to the least developed countries.

Should restrictions be increased, such as by imposing lower competitive need limits, the BOFT strongly urges that such restrictions not be applicable to items for which total U.S. imports are de minimis ($4 to $5 million), and that the President be given authority to waive application of the restrictions when it is in the national interest. Additionally, a "grace period" of sufficient duration should be provided to allow affected beneficiary countries to make necessary adjustments to the damaging impact of loss of duty-free treatment.

## I. Introduction

In response to a request for comments issued by the Subcommittee on Trade of the Senate Finance Committee on January 9, 1984, the Board of Foreign Trade (BOFT) of the Republic of China on Taiwan (ROC) submits the following comments on renewal of the United States Generalized System of Preferences (GSP). The BOFT believes that the GSP program, as it is presently structured, has benefited substantially both participating countries as well as the United States.

## II. GSP Provides Substantial Economic Benefits To The United States

### A. GSP Has Spurred U.S. Exports to Beneficiary Countries

GSP has offered the ROC and other beneficiary countries improved access to the U.S. market which has helped them to generate greater hard currency export earnings. These increased export earnings have in turn enabled beneficiary countries to expand the volume and value of imports from the United States. By 1980, total U.S. trade with developing countries was larger than U.S. trade with Europe and Japan combined. The LDC share of U.S. manufactured exports increased from 29% in 1970, prior to GSP, to nearly 40% in 1980. The same is true in the critical area of high technology U.S. exports: by 1980, LDCs accounted for approximately 40% of such U.S. exports. These trends, moreover, are likely to continue as long as LDCs are able to generate, through GSP trade, the necessary hard currencies.

As Table I indicates, U.S. annual exports to the ROC alone increased from $1.6 billion in 1976, the first year of the GSP program, to $4.4 billion in 1982, making it one of the fastest growing markets for U.S. exports. The U.S. gain, measured in terms of increased U.S. sales to the ROC made possible by GSP trade, far outweighs the minimal amount lost through uncollected duties. This export growth was assisted by the U.S. Department of Commerce's American Trade Center in Taipei, which is provided with free office space and other assistance for U.S. products exhibitions. It was also aided by administrative orders adopted by the ROC limiting certain imports to U.S. or European origin. In 1978, the ROC initiated the "Buy More From America" program. Since then, seven Procurement Missions have been sent to the U.S., accounting for over $6.5 billion in agricultural and industrial purchases throughout the United States (Table II).

A significant amount of the increased export sales by the United States to the ROC is tied directly to ROC production of GSP-eligible articles. U.S. producers supply a variety of raw materials, equipment, machinery, and constituent products that are used by ROC producers in the manufacture of their GSP products. As these products are developed, many are sold around the world, not just in the United States, so that in many cases these imports of raw materials and parts from the United States increase proportionally more than do their associated GSP exports back to the United States.

### B. GSP Has Provided U.S. Consumers With Substantial Savings

GSP imports have also provided U.S. consumers with substantial savings over the course of the program. The value of the GSP program to U.S. retail consumers is much greater than simply the duty rate avoided, since a duty increase is magnified many times over by the time an imported article reaches the end-user. U.S. importers and retailers have found in the course of numerous GSP product review cases that loss of duty-free treatment results in retail price increases of 3 to 5 times the duty amount imposed. It would be reasonable to expect, therefore, that elimination of duty-free treatment on the scale urged by some will lead directly to substantial retail price increases for U.S. consumers. Further, many GSP imports are cottage industry products which are not produced or are produced in very limited quantities in the United States. Other GSP exports have often developed new market sectors in the United States which have not been developed by domestic producers. Others moderate escalating prices or provide consumers with less costly alternatives. This is particularly important for industrial consumers, i.e. U.S. firms which need low-cost inputs for U.S. production. GSP imports of the inputs or components often provide U.S. producers with the margin needed to successfully compete against developed country imports, and hence promote U.S. production and employment. The BOFT has estimated that at least 16% of ROC GSP exports consist of such intermediate products which require further work in the United States.

## C. GSP Has Enabled Beneficiary Countries to Contribute to the Maintenance of an Open And Fair World Trading System

### 1. ROC Tariff Reductions

The GSP program has also served the United States' interests to the extent that it has enabled the ROC to play an increasingly important role in the maintenance of the world trading system. Since the inception of the GSP program, the ROC has signed two trade agreements with the United States (in 1978 and 1981) reducing tariffs on 339 categories of commodities in one agreement and on 39 categories in the other. The ROC has agreed with the United States to observe obligations substantially the same as those applicable to developing countries as set forth in certain of the Tokyo Round MTN Codes. The ROC also unilaterally reduced tariff rates on a number of household articles, such as electric appliances.

### 2. ROC Measures to Eliminate Counterfeiting

Another example of the affirmative steps the ROC is taking to make the trading system work is found in the area of commercial counterfeiting. The BOFT wishes to emphasize that the Government of the ROC is deeply concerned over the problems caused by commercial counterfeiting, especially the tension it has created in U.S.-ROC trade relations. As a country which has relied and will continue to rely heavily on foreign investment and international trade, the ROC simply can not afford to allow problems which may have existed in the past to continue. Unfortunately, while most ROC manufacturers and traders are law-abiding people, a handful of counterfeiters can hurt everyone and jeopardize much larger governmental interests.

It is also important to point out, when addressing the issue of commercial counterfeiting, that it is in many respects an inevitable phenomenon in developing countries. More importantly, it is a problem that does not lend itself easily to control or effective policing by governmental authorities. Just as developed countries themselves face formidable challenges in seeking to eliminate counterfeiting operations within their own territories, so developing countries also are challenged with difficulties inherent in the nature of the practice. The U.S. Congress is itself now grappling with legislation (S. 875 and H.R. 2447) that would impose criminal penalties for those who knowingly produce or traffic in counterfeit trademarks. In this respect, the ROC already has taken stronger measures than the United States. The ROC remains fully willing to cooperate with the United States in seeking to eliminate these damaging practices.

The ROC has already taken a variety of concrete steps to eliminate counterfeiting, including: 1) stiffening of the legal penalties for counterfeiting in the ROC, including severe administrative penalties such as revocation of export privileges and criminal penalties which were raised to a maximum of 5 years in prison and/or fines; 2) the screening of ROC exports more carefully for unlawful use of trademarks; and 3) an intensive educational campaign aimed at increasing the understanding among ROC businessmen of the importance of trademarks and the seriousness of counterfeiting. Under the new criminal penalties, prison terms, once imposed, must be served by convicted counterfeitors without commutation of the sentence, which has served as a strong deterrent. These measures, which have been implemented by the ROC in a concerted effort to prevent counterfeiting problems and which are more severe than measures taken by any other developing or developed country, are representative of a much larger effort by the ROC to play a useful role in supporting the international trading system.

There have been a number of recent proposals for addressing the issue of counterfeiting through GSP renewal legislation. Legislation proposed by Congressman Downey (H.R. 4502) in November 1983 would amend section 502(b) of the Trade Act of 1974 to preclude the President from designating a beneficiary as eligible for GSP in the event the country failed to provide adequate protection for trademarks. The Administration's intent, as expressed in statements to the Congress, is to use the section 502(c)(4) proposed market access provisions to address what they refer to as trade distorting practices, which include counterfeiting. Finally, draft legislation making GSP eligibility contingent on a determination regarding beneficiary country efforts to eliminate counterfeiting made by the Secretary of Commerce has been informally circulating in Congress in recent weeks.

A basic flaw underlies all of these attempts to link GSP eligibility with measures to combat counterfeiting: such linkage penalizes only those businessmen and traders who are engaged in fair trading practices, while leaving the true culprits unscathed. The argument is made that such linkage will provide strong incentives to beneficiary countries to enhance their own policing activities. Yet, countries such as the ROC, which have already mobilized enormous resouces in the war against counterfeiting, will end up being penalized despite their efforts. Even with the most sophisticated procedures and stringent laws, counterfeiting will continue, as it does now in the United States. It would be bad policy to give and take GSP benefits, disrupting and penalizing legitimate trade, based on actions over which beneficiary governments in many cases have little or no control. While the elimination of counterfeiting is a proper goal, linkage to GSP is the wrong means toward that goal. The Congress has before it now several pieces of anti-counterfeiting legislation through which it can address the counterfeiting problem and which would hit the wrongdoers directly. These are the proper legislative vehicles for attacking counterfeiting. Using the GSP program as a club to hammer beneficiary countries would be bad trade policy and it would ill serve the interests of those honestly seeking the elimination of counterfeiting.

## III. Maintenance of GSP Serves a Critical Foreign Policy Objective of the United States

In these times of economic recession in the United States and questioning of traditional means of foreign aid--direct bilateral and multilateral assistance--GSP remains an effective and economical means for promoting real economic development and good will for the United States. Unlike direct aid, the benefits that the U.S. extends through GSP cost U.S. taxpayers relatively little in terms of lost duty revenues (approximately $650 million in 1982, which is less than the amount of U.S. bilateral aid that went to certain individual countries alone in 1982), but results in concrete economic development generated through trade and, as pointed out above, increased U.S. export sales in beneficiary countries. The resulting benefits, both for the U.S. and beneficiary countries, are many times greater than this modest cost. The GSP program is by far one of the most cost-effective means for assisting developing countries.

The benefits of GSP must not be expressed only in terms of dollars and cents, however, for the economic development which GSP trade generates also results in political and social stability in developing countries and promotes closer relations between those countries and the United States. Elimination or severe restriction of GSP would be interpreted as a step backward from the United States' desire to see these countries assume a greater role in the world trading system. It would encourage closer economic and perhaps discriminatory ties between those LDCs and developed countries which continue their preference programs relatively unchanged. It should be recalled that much of the impetus that lay behind the original passage of GSP legislation in 1975 was the concern of many in the U.S. business community that existing preference schemes between other developed industrial countries and developing countries were locking U.S. exports out of important markets. See, e.g., 119 Cong. Rec.

H10962-11045 (December 10, 1973) (Statements of Reps. Pettis, Whalen, Biester, Fascell, and Fraser).

Severe restrictions on or elimination of the U.S. GSP program may also be seen as opportunistic and cynical by the United States' trading partners. Preference systems are maintained by developed countries under an expectation that each country is to share approximately equally in the burdens which such preferential programs entail. The European Community, for example, renewed its own GSP system in 1981 for another 10-year period and in the process eliminated many of the complex administrative provisions which had discouraged greater use of the program in the past. A drastic cut-back in the U.S. program, under the rubric of graduation or whatever, would upset the balance of burden-sharing and could be interpreted as protectionism directed at the weakest members of the international community.

## IV. GSP Has Played an Important Role in the Economic Development of Beneficiary Countries

Since its inception in 1976, the U.S. GSP program has become an integral part of the economic development plans of many beneficiary developing countries. By 1982, total GSP-eligible imports had grown to over 20% of total U.S. imports from beneficiary countries. Regionally, this dependence was even more marked: GSP-eligible imports from Asian beneficiary countries represented nearly 30% of total imports from these countries, while it reached 16% for Latin American beneficiary countries.

In the case of the ROC, the importance of GSP is clear: the share of the ROC's total exports to the United States represented by GSP-eligible products has grown from 35% in 1976 to over 48% in 1982. In 1982, 26% of the ROC's exports to the United States actually received duty-free treatment. Perhaps the importance of GSP to the ROC can be best understood when viewed in light of the fact that the value of the ROC's GSP-eligible exports represents fully 8% of its Gross National Product (GNP). Taking actions which affect the GSP status of this ROC trade is comparable, in relative terms, to taking action against total U.S. exports, which represent about 8% of U.S. GNP.

As Table III vividly indicates, the ROC's GSP exports to the United States have grown much more rapidly since the program's inception than its non-GSP exports indicating that the preferential treatment provided by GSP does have a clear impact on the competitiveness of ROC products in the U.S. market. The other side of the coin, however, is that loss of GSP can reasonably be expected to retard severely the ROC's ability to compete in the U.S. market and to lead to a loss of export trade.

The importance of GSP to beneficiary country competitiveness in the U.S. market was vividly demonstrated in the International Trade Commission's (ITC) recently released report on the GSP program. Changes in Import Trends Resulting from Excluding Selected Imports from Certain Countries from the Generalized System of Preferences, Report on Investigation No. 332-147, USITC Pub. 1384 (May 1983)(hereinafter cited as "ITC GSP Report"). On the basis of substantial statistical analysis, the ITC found that "Overall, the establishment of the exclusion [loss of duty-free treatment through competitive need limits] coincided with the end of the rapid rise in imports and with the lowering of import share in subsequent years." (Id. at iii, pp. 8-10) This empirical analysis strongly contradicts the assertion often made that GSP provides an "unnecessary" advantage which many beneficiary countries do not need to compete in the U.S. market.

Yet the benefits to the ROC from the GSP program should not be expressed only in terms of macroeconomic indicia, for the availability of preferential treatment has come to play as large, if not larger, a role in the lives of literally millions of individual ROC businessmen and employees. Many ROC businesses have made significant financial and resource commitments based on the availability of GSP treatment, as was intended by the United States when it implemented its program.

## V. GSP Law in Its Current Form Provides Prompt and Effective Protection for U.S. Industries and Eliminates GSP From Products From Countries Which Have Demonstrated Competitiveness In the Products

### A. GSP Imports Represent an Insignificant Share of Total Imports or Consumption

Total GSP duty-free imports have never been more than a minimal percentage of total U.S. imports, averaging around 3% since the program's inception. Moreover, with respect to many GSP imports, there are either no or very few U.S. producers of like articles, especially in the many labor-intensive or cottage-industry products that are imported from beneficiary countries.

### B. Statutory Exclusions Eliminate a Substantial Amount of Trade from GSP Eligibility Ab Initio

In a recently concluded study, the ITC found that "GSP imports accounted for approximately 0.5 percent of apparent U.S. consumption during 1978-81." An Evaluation of U.S. Imports Under the Generalized System of Preferences, USITC Pub. No. 1379 (May 1983) at p. VI. Moreover, even in the product sector with the highest GSP import penetration, miscellaneous manufacturers, the import-to-consumption ratio averaged only 2.1 percent. (Id.)

While the minimal share of imports and absence of competition make it unlikely that the GSP program has injured or would threaten U.S. jobs or industries in a general sense, there are also ample protections built into the existing GSP law to protect U.S. firms, workers, and even industries from injury due to specific product imports. Protection is provided under GSP in three principal ways: 1) many import sensitive products--textiles, apparel, shoes, certain steel and glass products and electronics--are statutorily excluded from eligibility under GSP; 2) competitive need limits work automatically to eliminate duty-free treatment for articles which exceed either the percentage or indexed limits; and, 3) discretionary graduation authority gives the President broad discretion to make any other alteration under the program which he deems warranted under the circumstances.

These aspects of the GSP program also insure that a country does not receive GSP treatment on a product in which it has become internationally competitive. The severity of these automatic and discretionary exclusions has made the U.S. GSP program one of the most restrictive of preferential schemes among developed countries. Because of the statutory exclusions and limited product coverage, GSP-eligible trade averaged only 35% of total trade from beneficiary countries in 1981. In 1983, only $10.8 billion or 48% of a total of $22.6 billion GSP-eligible trade actually received duty-free treatment. This U.S. percentage is significantly lower than is the case for most other countries providing preferential programs. (See, e.g., Operation and Effects of the Generalized System of Preferences, UNCTAD Fifth Review (1980), U.N Pub. E.81.II.D6, p. 33.) For European Community members, for example, the average share of duty-free imports to GSP-eligible has ranged from 55-60%. (See, Commission of the European Communities, The Generalized System of Preferences of the European Community, pp. 6-7, (pamphlet, Feb. 1981).)

### C. Competitive Need Exclusions

The value of total competitive need graduations has grown from $1.9 billion in 1976, at the program's inception, to $7.1 billion in 1982 or by 374%. Competitive need exclusions rose not only absolutely but also relative to total GSP duty-free and total GSP-eligible imports under the program. Between 1976 and 1982, the ratio of trade excluded from GSP benefits by competitive need limits to actual GSP duty-free imports rose from .59 to .85, while the ratio of competitive need exclusions to total GSP-eligible imports rose from .29 to .41. Competitive need exclusions have thus taken a larger and larger bite out of GSP imports throughout the program's history.

The vast bulk of these competitive need exclusions, moreover, have come from the program's major beneficiaries which have suffered competitive need losses commensurate with, or greater than, their use of the program. In 1982, the top 10 beneficiaries suffered over 85% by value of total competitive need losses. While the ROC's GSP duty-free imports have grown at an average annual rate of 27% over the course of the program, its competitive need losses have risen at an annual rate of over 60%. Assuming these rates remain constant, the absolute value of ROC exports excluded by competitive need limits would well exceed the value of its duty-free trade by 1984. The statistics on competitive need exclusions clearly reveal that, while major beneficiaries such as the ROC account for a large portion of duty-free trade under the program, they suffer an equal, if not greater, share of competitive need exclusions.

### D. Discretionary Graduation

Since 1980, discretionary graduation, under which the United States may remove GSP treatment from a particular product for a particular country even if those imports do not exceed competitive need limits, has provided even greater protection to U.S. industries. Discretionary graduation has been exercised in four principal ways: 1) through review of petitions submitted by interested parties seeking graduation of specific products; 2) through failure to redesignate an item that becomes eligible for duty-free treatment; 3) through denial of GSP eligibility for a country when new products are added to the GSP-eligible list; and

4) failure to allow waiver of the 50% limit for de minimis trade items.

Numerous U.S. industries and small businesses have availed themselves of the annual review procedures to seek removal of GSP treatment from specific products for particular countries. Since discretionary graduation was implemented, some 43 petitions from affected U.S. industries seeking either complete or country-specific elimination of an item from GSP eligibility have been filed and accepted (See Table IV). Of the 43 petitions accepted, 16 sought elimination of GSP for the ROC imports. Of these 16 petitions involving the ROC, 9 led to eventual graduation of the product in question. These 9 graduated products represented 45% of the 20 products graduated in total.

Discretionary graduation authority has been exercised most harshly with respect to GSP items eligible for redesignation. As Table V indicates, in the three years since discretionary graduation was implemented, well over half of all items eligible for redesignation were graduated and nearly 90% of all those ROC items eligible for redesignation were graduated. In terms of trade value affected, three-fourths of total trade eligible for redesignation was graduated rather than redesignated exercised most harshly with respect to GSP items eligible for redesignation. In terms of trade value affected, three-fourths of total trade eligible for redesignation was graduated rather than redesignated in 1982. (Table VI). For the ROC, 99.5% of its eligible trade in 1982 was graduated. The statistics reveal that use of discretionary graduation has become almost automatic in the case of the major beneficiaries: in 1982, 100% of graduated trade came from the top ten beneficiaries and this graduated trade represented fully 95% of their trade eligible for redesignation. It should be pointed out, in addition, that graduation in the context of product redesignation has been carried out with no formal mechanism for soliciting comments on impending graduation decisions for products eligible for redesignation.

Because of the many problems that have arisen with respect to discretionary graduation in the redesignation context, serious consideration should be given to changing the current practice. Many redesignation items are precisely those which should not be graduated: actual statistics have demonstrated that loss of duty-free treatment has seriously damaged their ability to compete in the U.S. market indicating that they are therefore not internationally competitive. (See ITC GSP Report, supra, at pp. iii, 8-10, 12.)

Looking more generally at the discretionary graduation authority, it is readily evident that the ROC has suffered, as was the case with competitive need limits, a greater share of total graduations than any other beneficiary. In 1982, the ROC's total losses to discretionary graduation amounted to $353 million or 36% of total graduations of $975 million (See Table VII). When losses due to both competitive need limits and discretionary graduation are added together, the total value of the ROC 1982 trade that is denied duty-free treatment amounts to approximately $2.3 billion or 28% of total losses under the program. These existing limits eliminate duty-free treatment, largely automatically, for approximately half of the ROC's GSP-eligible trade.

## VI. Imposition of New, Substantial Restrictions on GSP Use Would be Unwarranted and Damaging

Because competitive need limits and discretionary graduation have already been effective, and indeed in some cases unnecessarily protective of U.S. industry, the imposition of greater restrictions on the GSP program would be unwarranted and would be viewed by many beneficiary nations as only a punitive or protectionist action. This is particularly true of such blunt and damaging restrictions as lowered competitive need limits, sector graduation, or country graduation as have been proposed in the past.

Lowering the existing 50% or $53 million (adjusted for GNP growth) limits would perpetuate and indeed only aggravate the effects of what were originally wholly arbitrary limits without bearing any relationship, except happenstance, to developing country competitiveness, to potential or actual harm to a U.S. industry, or even to the overall economic interests of the United States. In the case of the ROC alone, reducing these limits by 50% to the range of 25% or $25 million, for example, would reduce GSP duty-free imports in a capricious fashion by over one-half, affecting trade which represents fully 2% of the ROC's GNP. To put this in perspective, it would be equivalent to other countries suddenly raising the duties on one-fourth of total U.S. exports by over 7% (the average duty waived under GSP). Such a shock would severely disrupt trade. Additionally, the BOFT is quite concerned that while certain lowered limits may appear on their face to be country neutral, in practice the effects of substantially reduced limits would be to place a disproportionate share of the losses on the ROC.

### A. Effects of a Lowered Percentage Limit Would Be Severe Without Modification of the De Minimis Amount

The problems caused by lowered competitive need limits are especially severe in the case of a lowered percentage limit. While the GSP law currently makes use of the de minimis waiver to prevent the present percentage limit from eliminating GSP benefits on items which are clearly not internationally competitive or threatening to United States interests, the de minimis limits have become wholly unworkable against the realities of present-day international trade. Even the most cursory review of the effects of lowering the percentage limit to the area of 25-30% reveals that an enormous amount of trade will be swept up and eliminated from GSP treatment which is precisely the kind of trade that the GSP program was intended to promote. Assuming that a 25/25 limit were adopted, of the 102 ROC items that would lose duty-free treatment solely because of the 25% limit (based on 1982 statistics), fully 45 of these items involved ROC imports of less than $3 million. Because of these deleterious effects which offer no countervailing benefit to the United States, the BOFT urges that the de minimis level should be raised at least to the range of $4-5 million.

### B. Country Graduation Serves No Policy Objective and Would be Unnecessarily Punitive

Graduation based on macroeconomic or developmental status indicators, as has been suggested by some in the past, is also without any sustainable policy or factual basis, and would merely result in protectionism, whatever the intent of its supporters. Since there is no generally accepted basis for establishing when a developing country becomes a developed country, selecting certain indices (e.g., positive trade balance, volume of exports under GSP, per capita GNP, etc.) is arbitrary and does not necessarily reflect the true level of development. Congress wisely stayed clear of the attempt to impose concrete country graduation criteria in the GSP law when it was originally enacted precisely because no two legislators or economists could agree on a sound set of criteria to use. (*See*, *e.g.*, H.R. Rept. No. 571, 93rd Cong., 1st Sess. (October 10, 1973) at 84; and S. Rep. 1298, 93rd Cong., 2nd Sess. (November 26, 1974) at p. 219.) Little has changed since that time to suggest that a similar attempt now to arrive at some formula would meet with any better results.

## VII. Increased Graduation and Restrictions on Major Beneficiaries Have Not Resulted and Will Not Result in Increased GSP Benefits for Other Beneficiaries

Contrary to arguments that have often been made in support of increased graduation or other restrictions aimed at the major GSP beneficiaries, actual experience under the program has revealed that when GSP duty-free treatment has been denied to one or all of the major beneficiaries in a particular item, denial has most often *not* led to meaningful increases in imports in the affected products from beneficiaries other than the majors. This is the conclusion reached in the President's Report to Congress on the First Five Years' Operation of the Generalized System of Preferences. (Committee on Ways and Means, 96th Cong., 2nd Sess., WMCP 96-58 (Apr., 1980), pp. 30, 68.) The ITC GSP Report also corroborated this conclusion after having analysed a substantial amount of import data over the program's history. It concluded "The countries benefitting most from the exclusions are advanced developing countries and developed countries--not less developed countries." (Id. at iii.)

If any effect occurs, most often it is that increased restrictions and graduation merely shift trade either to one of the other major beneficiaries (when only some of the majors are restricted, which serves only to discriminate against the restricted country in favor of its competitors) or to developed countries such as Japan which were never the intended beneficiaries of the program, or merely reduces exports to the United States in that product, thereby reducing the overall benefit of GSP. This experience is easily enough explained: a precondition for increased use of the program by countries other than the majors is not increased graduation of the majors, but rather the development of a basic economic infrastructure and the industrial base required to enter into production of the variety of goods receiving GSP treatment in sufficient quantity and quality to serve the United States market. The economies of most beneficiary countries are still predominantly devoted to the production and export of primary agricultural goods and labor-intensive products, such as textiles, apparel, footwear, and leather goods, which are statutorily excluded from the program.

Increased graduation of the majors may serve as effective and discriminatory protection or as a penalty, but it is mistaken to contend that it will assist in a substantial, meaningful way in increasing the use of the program by other developing countries. By contrast, the existing provisions of GSP have significantly reduced the share of GSP benefits enjoyed by the major beneficiaries. The average share of total duty-free trade accounted for by the five major beneficiaries for the three-year period, 1979-81, compared to the average for the previous three-year period (1976-78) dropped by 15%. The GSP system as it is currently structured is experiencing a natural process of evolution, with the major users gradually giving way to other developing nations as these countries do in fact develop the requisite industrial base and greater efficiencies.

## VIII. Presidential Waiver Authority Can Be Used to Promote The Objectives of the GSP Program as Well as Make it More Responsive to Actual Market Conditions

The BOFT strongly supports the inclusion in any renewal legislation of authority for the President to waive the application of competitive need limits when the national interest so requires. Under the present competitive need system, GSP benefits are removed automatically on a host of products where there is little, if any, justification for the removal due to either international competitiveness or injury to a domestic interest. On many items, there is simply no U.S. production whatsoever, or the duty amounts to only a nuisance duty; the only result of denying duty-free treatment on these items is increased costs to U.S. consumers at all levels of the economy. Presidential waiver authority would help alleviate this problem by giving the President the ability to disregard the limits on products where no compelling interest would be served by eliminating duty-free treatment.

Waiver authority would become all the more important if the competitive need limits were lowered as urged by some. As mentioned above, the lowered limits will sweep in an enormous variety products in which trade volumes and values are low and which do not threaten U.S. industry. While an increased de minimis will solve some of these problems, waiver authority could also be particularly helpful in reducing the severe impact of the lowered limits.

While the BOFT supports the inclusion of waiver authority, it is concerned about certain of the criteria upon which it will be exercised. The ROC has taken numerous steps, as outlined above, in support of an open and fair international trading system and expects to continue its efforts in this direction. The BOFT is nonetheless concerned about proposals being considered which would tie GSP benefits directly to issues related to market access. There are enormous practical difficulties in valuing market access concessions and in actually administering a "buy back" program under which the President would waive competitive need limits in return for concessions from beneficiary countries.

Another troubling aspect of the "buy back" concept is the transient value of a preference which is bought back by an LDC concession while discretionary graduation remains in effect or the President has unfettered discretion to revoke a waiver. It would be fanciful to imagine that a beneficiary nation would be willing to make a real, and presumably permanent, tariff or non-tariff concession when in return it received preferential treatment that could evaporate overnight as a result of a petition by a U.S. industry or a shift in attitude by a sitting administration.

## IX. If Changes Are Made in GSP, a Sufficient "Grace Period" Should be Included to Allow for Necessary Negotiations And Adjustments in Countries Affected by Lower Limits

While the BOFT believes that many problems are raised by the application of market access conditions to the grant of GSP benefits, should renewal legislation adopt such a scheme or even a straight lowering of the competitive need limits, it is crucial that a sufficient period of time be provided before imposition of reduced limits to allow for adjustments and comprehensive discussions between countries leading to a mutually acceptable agreement with respect to off-setting concessions. Inclusion of a "grace period" in renewal legislation is critical also because of the enormous and severe impact that imposition of reduced competitive need limits would have on the ROC economy. As mentioned above, it is estimated that a lowered competitive need limit could eliminate duty-free treatment on well over $1 billion in ROC exports to the U.S. Given an average duty rate of approximately 7% ad valorem, this would result in a sudden and dramatic disruption in the terms of trade and an increase in duty costs of as much as $70 million. Even for a fully mature economy such as in the United States, this sort of shock, relatively speaking, would cause severe disruptions and hardships on both the personal as well as the national levels. Apart from the merits of the GSP program itself, any action taken with respect to the existing level of benefits should be done with the full awareness of the severe impact any changes will have on beneficiary countries--especially at a time of increasing debt burdens and decreasing hard currency earnings.

## X. Conclusion

For the foregoing reasons, the BOFT urges that the GSP program be renewed for another ten-year period, and that further severe restrictions on the program would be unwarranted by past experience and would undermine the very objectives of the program.

Coordination Council for
North American Affairs
4301 Connecticut Avenue, N.W.
Washington, D.C. 20008
(202) 686-6400

Benjamin C. Lu
Director, Economic Division

## TABLE I

### U.S. EXPORTS TO THE ROC
### 1976 - 1983

(Millions U.S.$)

| Year | Value | Index<br>1976=100 |
|---|---|---|
| 1976 | 1,635 | 100 |
| 1977 | 1,798 | 110 |
| 1978 | 2,340 | 143 |
| 1979 | 3,271 | 200 |
| 1980 | 4,337 | 265 |
| 1981 | 4,305 | 263 |
| 1982 | 4,367 | 267 |
| 1983 | 4,296 | 263 |

# TABLE II

# ROC PROCUREMENT MISSIONS
# TO THE UNITED STATES
# 1978 - 1983

(Millions U.S.$)

| Mission/Date | By Commodity | | Total |
|---|---|---|---|
| | Agricultural | Industrial | |
| 1st - 1/10/78 | 200.0 | 68.8 | 268.8 |
| 2nd - 6/9/78 | 314.5 | 472.3 | 786.8 |
| 3rd - 11/6/78 | 360.8 | 145.2 | 506.0 |
| 4th - 6/27/79 | 341.8 | 600.1 | 941.9 |
| 5th - 3/14/80 | 468.0 | 1,324.0 | 1,792.0 |
| 6th - 3/27/81 | 482.6 | 594.6 | 1,077.2 |
| 7th - 8/29/82 | 500.7 | 69.1 | 569.8 |
| 8th - Aug. 83 | 501.8 | 140.4 | 642.2 |
| TOTALS | 3,170.2 | 3,414.5 | 6,584.7 |

## TABLE III

## INDICES

## ROC TOTAL, GSP[1] AND NON-GSP EXPORT GROWTH

(1976 = 100)

| Year | Total ROC Exports to the U.S. | ROC GSP Exports to the U.S. | ROC Non-GSP Exports to the U.S. |
|---|---|---|---|
| 1976 | 100 | 100 | 100 |
| 1977 | 123 | 128 | 121 |
| 1978 | 173 | 189 | 164 |
| 1979 | 198 | 239 | 176 |
| 1980 | 230 | 279 | 203 |
| 1981 | 270 | 358 | 222 |
| 1982 | 299 | 406 | 240 |
| 1983 | 376 | 546 | 292 |

[1] GSP-eligible

## TABLE IV

### HISTORY OF PETITIONS FILED IN GSP ANNUAL PRODUCT REVIEWS
### 1980-1982

| Year | (A) Total Petitions Accepted for Consideration1/ | (B) Total Accepted Petitions Involving ROC Products | (C) Total Products Graduated | (D) Total ROC Products Graduated | % B/A | % D/C |
|---|---|---|---|---|---|---|
| 1980 | 8 | 2 | 2 | 0 | 25 | 0 |
| 1981 | 18 | 8 | 7 | 5 | 44 | 71 |
| 1982 | 17 | 6 | 11 | 4 2/ | 35 | 66 |
| TOTAL | 43 | 16 | 20 | 9 | | |

1/ This includes petitions to remove products completely from GSP eligibility as well as petitions to remove country-specific products.

2/ One of the petitions filed to graduate an ROC product became moot when ROC imports in that item exceeded competitive need limits.

## TABLE V

## HISTORY OF PRODUCT GRADUATION THROUGH FAILURE TO REDESIGNATE ROC PRODUCTS AS ELIGIBLE

| Year | (A) Total No. Items Eligible for Redesignation | (B) Total No. ROC Items Eligible for Redesignation | (C) Total No. Items Graduated Instead of Redesignated | (D) Total No. ROC Items Graduated Instead of Redesignated | % C/A | % D/C | % D/B |
|---|---|---|---|---|---|---|---|
| 1980 | 53 | 7 | 21 | 4 | 40 | 19 | 57 |
| 1981 | 74 | 17 | 39 | 9 | 53 | 23 | 53 |
| 1982 | 99 | 27 | 58 | 24 | 59 | 41 | 89 |
| TOTAL | 226 | 51 | 118 | 37 | 52 | 31 | 72 |

## TABLE VI

### VALUE OF TRADE AFFECTED BY REDESIGNATION GRADUATIONS
(Million U.S.$)

| Year | (A) Total Trade Eligible for Redesignation | (B) Total ROC Trade Eligible for Redesignation | (C) Total Trade Graduated | (D) Total ROC Trade Graduated | % C/A | % D/C | % D/B |
|---|---|---|---|---|---|---|---|
| 1980 | 507.0 | 76.3 | 355.5 | 68.6 | 70 | 19 | 90 |
| 1981 | 810.0 | 192.8 | 597.2 | 137.3 | 74 | 23 | 71 |
| 1982 | 1,075.8 | 296.3 | 805.4 | 294.9 | 75 | 37 | 100 |
| TOTAL | 2,392.8 | 565 .4 | 1,758.1 | 500.8 | 73 | 28 | 89 |

BRITISH EMBASSY
HONG KONG OFFICE

3100 Massachusetts Avenue, N.W.
Washington D.C. 20008

Ref: B/2

Mr. Roderick A. De Arment,
Chief Counsel,
Committee on Finance,
Room SD-219,
Dirksen Senate Office Building,
Washington D.C. 20510

16 February 1984

Dear Mr. DeArment,

Finance Subcommittee on International Trade
Second Hearing on the Administration's Plans
for Renewing the Generalized System of Preferences
Held on 27 January 1984.

In response to the press release No. 84-103 dated 9 January 1984, I have pleasure in enclosing five copies of the submission of views by the Trade Department of the Hong Kong Government for consideration by the Subcommittee and inclusion in the printed record of the hearings.

Copies of the submission have also been forwarded to the Department of State under cover of the Embassy's Diplomatic Note No. 29. A copy of that note is also attached.

Yours sincerely,

Mark Goodfellow

M.A. Goodfellow
Counsellor
Hong Kong Commercial Affairs

MAG:kdm

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DIPLOMATIC NOTE NO.29

The British Embassy present their compliments to the Department of State and have the honour, on behalf of the Hong Kong Government, to refer to the recent hearings on the renewal of the United States Generalized System of Preferences (GSP) conducted by the Committee on Finance of the United States Senate in Washington D.C., on 27 January 1984.

The Hong Kong Government wish to express their appreciation to the Committee for the opportunity to present their views on the extension of the United States GSP programme, and hope that the attached statement, a supplement to Hong Kong's submission sent under cover of the Embassy's Note No. 58 dated 28 April 1983 to the Trade Policy Staff Committee, will assist the Committee on Finance in their consideration of the future of the GSP programme.

The British Embassy avail themselves of this opportunity to renew to the Department of State the assurance of their highest consideration.

BRITISH EMBASSY
WASHINGTON D.C.
16 February 1984

# Submission of Views by the Trade Department of the Hong Kong Government on the Renewal of the U.S. Generalised System of Preferences and Certain Related Matters

## I. Introduction

Current legislation governing the United States Generalised System of Preferences (USGSP) expires on 3rd January 1985.

2. The Generalised System of Preferences Renewal Act of 1983 announced by the Administration in July 1983 proposes a number of amendments to Title V, Trade Act of 1974 which governs the USGSP programme, and proposes to extend the programme for a ten year period.

3. The Renewal Act seeks to introduce additional and more stringent competitive need criteria; to provide specifically for the present graduation policy; and to establish additional conditions for USGSP eligibility.

4. This submission presents Hong Kong's views on the Renewal Act and certain USGSP matters related thereto. Hong Kong's views are summarised in the next section, while more detailed considerations are set down in later sections.

5. However, before considering the present proposals, it is worth recalling the GATT framework decisions of 25 June 1971 and 28 November 1979 within which Generalised Systems of Preferences (GSP) operate. Under the former decision, GSP was to establish generalised, non-reciprocal and non-discriminatory preferences beneficial to the developing countries in order to increase the export earnings, to promote the industrialisation, and to

accelerate the rates of economic growth of these countries. The 1979 decision confirmed the continued operation of GSP on the original basis.

Summary of Hong Kong's submission

6. In Hong Kong's view the basic objectives of GSP remain correct and desirable. Accordingly, Hong Kong urges the United States to operate USGSP on a generalised, non-reciprocal and non-discriminatory basis under the framework specified in the GATT decisions of June 1971 and November 1979.

7. The present USGSP as legislated provides such a system with certain safeguards (i.e., competitive need criteria) whereby exporting beneficiaries may on an objective and non-discriminatory basis be excluded from participation with regard to specific USGSP products. Hong Kong supports the continuation of USGSP in this fashion.

8. The present system is, however, supplemented by the policy of graduation of certain beneficiaries with regard to certain products even when the objective safeguards noted above have not been breached. Such a policy is discriminatory and not in accordance with the basic principles of GSP. Hong Kong objects to the policy and has been adversely affected by its implementation.

9. Despite the graduation policy, Hong Kong has benefited from USGSP. The benefits to Hong Kong can most readily be measured in two ways: first, Hong Kong has broadened its industrial base - in 1982 it recorded shipments in 1,217 GSP product categories

compared with 928 categories in 1976; secondly, the value of duty-free USGSP imports from Hong Kong was $794.9 million in 1982 compared with $346.7 million in 1976. This diversification and growth has been particularly welcome since exports in textiles, which are ineligible for USGSP and constitute 40 percent of Hong Kong exports to the United States, are subject to a bilateral restraint agreement which severely limits the scope for expansion.

10. The relevance of GSP to the above can most readily be seen through an examination of the effect on Hong Kong GSP exports when the USGSP benefit has been removed for any product. Such analysis indicates first that Hong Kong's share of the import market generally declines substantially after such action, and secondly that Hong Kong's lost share of the import market is generally not taken up by the least developed beneficiaries. Thus, it appears that USGSP benefits do generally achieve the objectives of the scheme, by making Hong Kong products competitive with products of non-beneficiary suppliers rather than with products of other beneficiary suppliers.

11. Hong Kong notes with concern suggestions that Hong Kong should be removed from the list of USGSP beneficiaries. Hong Kong considers such suggestions to be against the principles of the GATT decisions governing GSP. Hong Kong remains a developing territory by any established standards. Furthermore, such suggestions to remove Hong Kong from USGSP eligibility ignore that Hong Kong offers completely free access to all goods and services,

imposes no tariffs or quantitative restrictions on imports, and levies revenue duties only on tobacco, alcoholic liquors, methyl alcohol and some hydrocarbon oils.

12. Finally Hong Kong believes that the United States benefits from trade with Hong Kong and notes that United States exports to Hong Kong have grown in the period 1977-1982 at roughly the same rate as Hong Kong exports to the United States.

## II. USGSP and Provisions of the Renewal Act

13. Some perspective is given to the USGSP programme by examining the constituent shares of imports of GSP products. In 1982, non-beneficiary suppliers achieved about 72 percent of the total imports of GSP products into the United States. Of the 28.5 percent achieved by beneficiary suppliers, about half was excluded from duty-free status through exclusion on competitive need or other grounds. In 1982, total GSP imports from all suppliers constituted 25 percent of total United States imports, and duty-free GSP imports constituted three percent of total United States imports.

### The Renewal Act

14. The proposed legislation provides formally for graduation, and provides that the extent of eligibility (or graduation) of any beneficiary would depend on certain criteria. The principal features of the Act are as follows:

(a) a more stringent set of competitive need criteria with reduced limits of U.S. $25 million and 25 percent import share will apply to beneficiaries in products where the Administration decides that such beneficiaries have demonstrated a sufficient degree of competitiveness relative to other beneficiary countries;

(b) the current competitive need criteria will continue to apply to products from beneficiaries which are not caught under (a) and which are not designated as least developed countries;

(c) least developed countries which are designated by the President within six months of the date of enactment will not be subject to either (a) or (b);

(d) The President will be given discretionary authority to waive the more stringent competitive need criteria two years after enactment, but subject to certain additional criteria including reciprocal market access, anti-counterfeit activities, etc.

## Graduation

15. Since 1980, a policy of discretionary graduation has been adopted under which over $1 billion in USGSP eligible trade has been excluded from duty-free treatment where beneficiaries were considered to be highly competitive in certain products. No criteria or rules have been announced for the discretionary graduation policy. Hong Kong has suffered particularly under this policy and many Hong Kong products, which would be eligible otherwise, have been denied USGSP duty-free treatment since 1981.

16. In 1983, Hong Kong was excluded from USGSP in 44 items, of which 20 were excluded by graduation. According to recent published statistics on USGSP imports for the first 10 months (January to October) in 1983, only two among the graduated items have exceeded the competitive need limits; none of the other graduated items exceed the limits by value or market share, as illustrated by Table 1. The denial of duty-free treatment generally caused a substantial decline in Hong Kong's exports of these items. For instance in TSUS 755.25 (candles and tapers), Hong Kong's share of imports dropped from 49.8 percent in 1981 (year of graduation) to 39.4 percent in 1982 to 39.1 percent for the first 10 months of 1983.

17. The rationale often advanced for increased use of graduation is that it will assist in redistributing the benefits of the USGSP programme to the less-advanced beneficiaries. That the shift in benefit has not occurred is acknowledged in the Administration's Five Year USGSP Review (1980) which noted that the less developed beneficiaries had not been able to increase their overall USGSP benefits when one of the major beneficiaries was graduated from USGSP as a result of competitive need. The same conclusion was reached in a USITC study: An Evaluation of U.S. Imports Under the Generalised System of Preferences, May 1983 (USITC Publication No. 1379).

18. To assess the effects of GSP on trade, Hong Kong conducted a separate analysis of changes in United States trade patterns during the course of the USGSP programme. The analysis, described

in the submission made to the Trade Policy Staff Committee by the Government of Hong Kong in April 1983 in connection with hearings on USGSP renewal, revealed that in those products where Hong Kong had been excluded from USGSP treatment, the market share gained at Hong Kong's expense by USGSP non-beneficiary suppliers was largest, followed by other major beneficiary suppliers while the less-advanced beneficiaries recorded no trade in 75 percent of the products where Hong Kong had lost duty-free treatment.

19. Despite clear-cut evidence and the Administration's acknowledgement that graduation of more advanced beneficiaries does not benefit less-developed beneficiaries, the Administration now seeks to make the graduation policy a specific provision under the Renewal Act. Hong Kong considers that discretionary graduation is discriminatory, reduces the benefits available to beneficiaries and, because of the lack of transparency, creates uncertainty for the trade.

## Eligibility Criteria

20. The proposed legislation seeks to give the President the authority to waive the more stringent competitive need criteria two years after enactment, but the waiver is conditional on a number of factors including reciprocal market access, national economic interests, anti-counterfeit activities, barriers to services. Hong Kong objects to conditional eligibility which is counter to the objectives of the GSP programme, described by the Decision of the GATT CONTRACTING PARTIES of 25 June 1971 as

being "generalised, non-reciprocal and non-discriminatory". These basic provisions are central to GSP in that the contracting Parties, in accepting them, have recognised the special problems common to a greater or lesser degree to all developing countries. The United States concerns over reciprocity, etc., are valid but GSP is not an appropriate area in which to pursue them.

21. Moreover, during the two years before the President is able to exercise his authority to waive the more stringent competitive need criteria, a beneficiary's exports could be subjected to the more stringent competitive need criteria despite its compliance with the additional criteria relevant to such waivers.

22. Thus, Hong Kong objects to the provisions of the Renewal Act. Other factors relevant to the USGSP in the context of Hong Kong's unique circumstances are detailed in the next section.

## III. Hong Kong's Unique Position

### Open Market

23. Hong Kong offers completely free access to all goods and services, imposes no tariffs or quantitative restraints on imports and levies revenue duties only on tobacco, alcoholic liquors, methyl alcohol and some hydrocarbon oils. Such duties are applied on a non-discriminatory basis to imports from all sources and to local produce. Hong Kong does not subsidise exports, nor protect its domestic industry from foreign competition. Nor is there

discrimination against foreign companies setting up business in Hong Kong.

## Trade and Investment from the United States

24. Hong Kong's economy operates in an environment in which market forces are allowed to predominate. Its open market offers good opportunities for increased trade between the United States and Hong Kong. Table 2 illustrates that while United States imports from Hong Kong doubled between 1977 and 1982, United States exports to Hong Kong have also increased at the same rate. The United States is Hong Kong's largest export market and third largest supplier. In view of the lack of natural resources and population of over 5 million, Hong Kong's demands for raw materials, agricultural produce and consumables are substantial without any restrictions on sources. Hong Kong's potential as a market for United States exports is shown by trade figures which demonstrate that Hong Kong is the largest net importer of textile goods and, as acknowledged at the House hearing on 8 February, has the world's largest per capita consumption of fresh oranges from the United States.

25. Hong Kong occupies a strategic position in the Pacific area. With no restrictions on movement of capital or foreign ownership, many U.S. businesses have chosen Hong Kong as a location for their regional headquarters, branch offices or supporting subsidiaries. This allows greater diversification by United States businesses whereby they may become more competitive in the world and regional

market. There are 21 United States banks established in Hong Kong. The encouragement of this two way trade and investment can only be of mutual benefit to both parties.

## Hong Kong Obligations and Actions as a Member of the International Trading Community

26. Hong Kong practises to the full the rules of the General Agreement on Tariffs and Trade (GATT).

27. Hong Kong fully discharges its responsibility to the international trading community e.g., in prevention of counterfeit activities, protection of intellectual property rights. The "International Convention for the Protection of Industrial Property" (commonly known as the Paris Convention) has been accepted and applied by Hong Kong since 16 September 1977. As regards counterfeiting, Hong Kong has made determined efforts to provide appropriate legislation and enforcement action. Hong Kong laws giving effect to the Paris Convention provide for severe financial penalties (up to HK $0.5 million) and imprisonment for up to 5 years. Enforcement of the legislation is carried out by officers of the Hong Kong Customs and Excise Department who are empowered to enter and search non-domestic premises without a search warrant and to seize and detain anything believed to be in contravention of the law. Close liaison is also maintained with local and international policing organisations. Hong Kong's vigorous anti-counterfeit efforts are reflected by the fact that enforcement staff were increased by 50 percent in 1981 and that

the number of prosecutions has increased from 239 in 1981 to 421 in 1983.

## Tobacco and Revenue Duties

28. During the Senate hearings on 27 January 1984 on the Renewal Act, it was alleged that Hong Kong discriminates against American cigarettes. Hong Kong does not discriminate against any source. Excise duties are levied on tobacco for revenue purposes only and are applied equally to all imports. The duty on tobacco leaf is lower than that on cigarettes: this differential reflects additional tobacco which must be used in making cigarettes (i.e., wastage).

29. In this context, United States cigarettes account for 66 percent of the Hong Kong market. Hong Kong also notes that in 1983 it was the biggest export market for United States cigarettes in the world. According to data obtained from the United States Commerce Department, the 1983 exports to Hong Kong were valued at over U.S. $135 million, $12 million up from 1982. These figures are truly remarkable, considering Hong Kong's relatively small population, and argue against any allegation of discrimination.

## Other Hong Kong Considerations

30. In common with other GSP beneficiaries, Hong Kong has many problem areas to tackle - education, social welfare, transport, housing and other major programmes are all being implemented with great vigour. Most of these problems are exacerbated by the

physical constraints of Hong Kong, which is a small territory with no natural resources, and the ability to export is vital to Hong Kong's survival. Furthermore, Hong Kong has in recent years been faced with legal and illegal immigration in large numbers (between 1978 and 1982 about 530,000 legal and illegal immigrants entered Hong Kong). It has also maintained its policy of receiving Vietnamese refugees despite the large numbers involved (reaching a peak in the first seven months of 1979 when 66,045 refugees arrived) and the uncertainty of eventual resettlement elsewhere.

## IV. Conclusion

31. Within the GATT framework decisions of 1971 and 1979 GSP has been established for application on a generalised, non-reciprocal and non-discriminatory basis. As a developing territory, Hong Kong should therefore be fully eligible for any benefits granted under the existing USGSP programme and any extension thereto.

32. Furthermore, Hong Kong's market practices and its other circumstances argue for Hong Kong's inclusion in any USGSP programme, and any suggestions to exclude Hong Kong from USGSP, in part or in whole, are manifestly unjust.

## Table 1

## USGSP Imports for January - October 1983: Items from Hong Kong excluded by graduation

(Value US$)

| | TSUS No. | Brief Description | Imports from All Suppliers | Imports from Hong Kong | Percentage Share |
|---|---|---|---|---|---|
| 1. | 33740 | Woven fabrics of silk, jacquared-figured, degummed, bleached, or coloured. | 6,456,553 | 206,817 | 3.2 |
| 2. | 38961 | Artifical flowers, man-made fibers | 81,231,427 | 24,168,768 | 29.8 |
| 3. | 65089 | Scissors and shears and blades, nes, over $0.50 but not over $1.75 per dozen | 1,375,314 | 231,481 | 16.8 |
| 4. | 65413 | Cooking and kitchen ware of aluminum, nes enamelled | 9,671,744 | 5,544,802 | 57.3 |
| 5. | 67850 | Machines, nspf, and parts | 1,348,035,353 | 25,682,534 | 1.9 |
| 6. | 68370 | Flashlights and Parts | 9,193,571 | 4,081,184 | 44.4 |
| 7. | 70639 | Flat goods, of textile materials, except cotton | 20,872,171 | 2,711,434 | 13.0 |
| 8. | 70661 | Flat goods of materials, nes | 18,257,743 | 4,702,954 | 25.8 |
| 9. | 70847 | Frames, mountings and parts of eyeglasses, goggles, etc. | 173,106,689 | 17,682,864 | 10.2 |
| 10. | 70940 | Mechano-therapy appliances, massage apparatus, and parts | 9,776,805 | 2,849,844 | 29.1 |

| | TSUS No. | Brief Description | Imports from All Suppliers | Imports from Hong Kong | Percentage Share |
|---|---|---|---|---|---|
| 11. | 72711 | Furniture and parts of rattan | 70,106,027 | 8,469,371 | 12.1 |
| 12. | 73715 | Construction kits or sets, nes | 73,441,498 | 26,077,261 | 35.5 |
| 13. | 73721 | Doll clothing imported separately | 13,349,804 | 6,247,295 | 46.8 |
| 14. | 73780 | Toys, nspf, having a spring mechanism | 24,737,905 | 9,462,193 | 38.2 |
| 15. | 74012 | Mixed link necklaces almost wholly of gold | 2,488,546 | 23,624 | 0.9 |
| 16. | 74013 | Necklaces, nes, almost wholly of gold | 258,165,502 | 1,399,069 | 0.5 |
| 17. | 74014 | Jewelry, nes, of precious metals | 316,096,303 | 30,066,775 | 9.5 |
| 18. | 74015 | Jewelry etc. nspf | 76,347,706 | 38,189,371 | 50.0 |
| 19. | 74125 | Beads, bugles, and spangles, not strung and not set, of synthetic resin | 1,797,114 | 521,363 | 29.0 |
| 20. | 75525 | Candles and tapers | 24,715,717 | 9,671,977 | 39.1 |

Note: Based on preliminary data and subject to revision, the dollar trade value competitive limit is expected to be $57.9 million for calendar year 1983.

Source: Federal Register

## TABLE 2

## US Trade with Hong Kong

(Value: US$ million)

| | 1977 | 1982 | Percentage Change (1982/1977) |
|---|---|---|---|
| Imports from H.K. | 2,883.0 | 5,539.6 | +92.1% |
| Exports to H.K. | 1,291.6 | 2,452.7 | +89.9% |

Source: Highlights of US Export and Import Trade

## STATEMENT OF
## BOBBY F. McKOWN
## EXECUTIVE VICE PRESIDENT

## SUBCOMMITTEE ON INTERNATIONAL TRADE
## COMMITTEE ON FINANCE
## UNITED STATES SENATE

## POSSIBLE RENEWAL OF GENERALIZED SYSTEM OF PREFERENCES

February 17, 1984

This Statement is submitted by Mr. Bobby F. McKown, Executive Vice President of Florida Citrus Mutual (FCM), a voluntary cooperative trade association whose membership consists of 13,278 active Florida citrus growers. We appreciate the opportunity to present our opinions on the possible renewal of the President's authority under Title V of the Trade Act of 1974 to grant duty-free treatment for imports of eligible articles from beneficiary developing countries. We also appeared before the Trade Policy Staff Committee in April 1983 and the Subcommittee on Trade of the Committee on Ways and Means of the U.S. House of Representatives on February 8, 1984, and presented our suggestions for improvement in the administration of the GSP program. We wish to reiterate our concerns as this Subcommittee considers legislation to extend the President's authority under Title V.

The citrus industry is an extremely important segment of Florida's economy, accounting for over 30% of the four billion dollars of Florida farm-gate receipts in 1981. There are an estimated 16,000 citrus producers in Florida, representing almost 20% of the 85,000-plus people directly employed in the Florida citrus industry in jobs ranging from harvesting to research.

The sound and equitable adminstration of domestic and international trade policies are vital to the members of Florida Citrus Mutual and the United States citrus industry. While we support in principle the objectives of the United States GSP program, as we supported the recently approved Caribbean Basin Initiative legislation, it is essential that certain safeguards be built into the program to avoid unnecessary trade distortions and adverse consequences for sensitive domestic industries. The sensitivity of the citrus industry to imports from developing countries was recently reaffirmed in a countervailing duty determination of the U.S. International Trade Commission. On July 11, 1983, the ITC determined that the domestic industry is threatened with material injury by reason of subsidized imports of frozen concentrated orange juice from Brazil. The determination left in effect a suspension agreement whereby the Government of Brazil has agreed to impose an import tax to offset the net subsidies received by Brazilian concentrated orange juice exporters. Brazil, which is a principal beneficiary of the GSP program and accounts for a large proportion of the duty-free trade benefits, is now the largest producer of orange juice in the world. While Brazil would certainly not qualify for GSP treatment in the United States with respect to orange juice, it stands as an example of the potential of similarly situated, less-developed countries which have the benefits of ideal growing conditions and low wage labor, to disrupt the U.S. and world markets where conditions of excess supply prevail. Most importantly, the examples of Brazil and Mexico demonstrate that the U.S. tariff structure for citrus products does not inhibit development of foreign industries and permits the importation of adequate supplies of citrus when needed. The added incentive of duty-free treatment would not enhance economic development in beneficiary countries; it would simply distort the U.S. market structure. We suspect that similar circumstances exist in other U.S. agricultural sectors, and the theory of comparative advantage, as applied to agricultural products, serves the long term interests of neither the beneficiary country nor U.S. consumers.

The legislative history of the GSP program indicates that it was anticipated that fabricated non-agricultural products would be the principal subject of duty-free benefits. The development which is encouraged by GSP treatment for citrus products is not the diversified industrial and economic development expected by preferential treatment. In fact, a recent United Nations Food Organization study suggested that the concentration of GSP benefits on agricultural products may actually hinder the overall economic development of some beneficiary countries. Since the U.S. citrus sector has already been demonstrated to be import sensitive and the current tariff structure has benefitted U.S. consumers by permitting adequate quantities of imported citrus products, we submit that citrus should be added to the list of articles which are import sensitive for purposes of the GSP program.

Florida Citrus Mutual, the Florida Citrus industry and the U.S. citrus industry recognize and understand the original purpose of the Generalized System of Preferences as it was conceived in the late 60's. However, we question the direction this system has taken in recent years. For instance, in 1969 when President Nixon approved the U.S. participation in a generalized system of preferences, his transmittal message on the initial bill indicated preferences are intended for a broad range of manufactured and semi-manufactured products and for only a selected list of agricultural and other primary products. This bill was subsequently signed into law by President Ford in January 1975.

According to a report published by the Foreign Agricultural Service in July 1982 the Generalized System of Preferences began its seventh year of operation on January 1, 1982. At that time, approximately 2,900 items had been approved for duty-free treatment under the GSP, and of those 400 were agricultural items. In 1976, the value of agricultural duty-free imports under the program amounted to $547.5 million. By 1981, this figure increased to over 1½ billion dollars.

While we can recognize the Federal Government's concern for lesser developed countries and while we can understand a desire to provide some economic assistance to these various countries, we would urge the committee to study thoroughly the requests contained in our comments and brief. Representatives of our industry have traveled to Washington frequently in order to protect the economy and stability of our great industry, and we appreciate the opportunity to present this information in support of the Florida citrus industry. In numerous hearings before the ITC and TPSC citrus products have been proven import sensitive.

Sound and equitable administration of domestic and international trade policies are vital to the members of this association and the health of the Florida citrus industry. Consequently, we recommend that certain changes be made in the program which take full account of the sensitivity of the citrus and other U.S. industries to highly competitive imports from other countries. Florida Citrus Mutual suggests the following improvements.

1. A Moratorium for Demonstrated Import-Sensitive Articles

Under current administration of the GSP statute, countries or foreign concerns may petition the Committee for GSP treatment each year, regardless of previous years' determinations not to grant eligibility, or refusal to accept petitions for consideration, because of past import sensitivity of an article. The process of repetitive petitioning for duty-free treatment not only taxes unnecessarily the resources of the domestic industry, but that of the Trade Policy Staff Committee and GSP Subcommittee staff as well. When a product was previously demonstratd to be import sensitive in the context of an annual review, current procedures permit the filing of new petitions in as short a period as 60 days after the Presidential Proclamation is issued, usually about April 1. While such re-filings must be accompanied by a showing of changed circumstances since the previous determination, it is still necessary for the Trade Policy Staff Committee to analyze the new petition and, until July 15, when petition acceptances are published, there is uncertainty in the trade about the future GSP status of product.

It is suggested that a moratorium of at least one year prior to re-petitioning be enforced when an article is demonstrated to be import-sensitive. Petitions filed before that time should be automatically rejected, without regard to the changed circumstances substantiation currently included in the regulations. This would avoid uncertainty in the affected import-sensitive domestic industry and avoid needless expenditure of Committee staff resources in repetitive reviews of petitions.

### 2. Specific Commodity - TSUS Number

When a country and/or importer is petitioning for GSP treatment, the request must be by specific commodity as well as by TSUS number. This will clarify the request since some TSUS numbers refer to several commodities or products.

### 3. Increased Enforcement of Petition Requirements

The Trade Policy Staff Committee's regulations currently require that petitions for GSP eligibility for an article must submit "specific information on how the GSP treatment would affect the petitioner's business and the industry producing like or directly competitive articles in the United States, including information on how the requested action would affect competition in that industry; (ii) the source of petitioner's competition and the markets and firms supplied by both the petitioner and competitive firms, and (iii) (other available information)." 15 C.F.R. S2007.1(a)(4). Additional information required to be submitted by a petitioner includes data showing U.S. production, capacity, employment, sales, profitability, cost analysis, the number and location of firms, and the name of each beneficiary developing country which exports the relevant product to the United States. Much of this information is readily available to petitioning governments and parties from published sources or trade associations, yet foreign governments often simply submit lists of articles with little or no substantiating information, or in-depth projection of the manner in which each particular request will aid in the development of the nation's economic infrastructure.

Illustrations of the two problems I've just discussed have arisen with respect to the repeated requests for designation of GSP eligibility for frozen concentrated orange juice. In 1980, the Government of Mexico requested GSP treatment for orange concentrate, listing the item with several others and providing virtually no information about the country's industry and specific effects of its exports on either world markets or internal economic development. The petition was not accepted for review due to the domestic industry's import sensitivity (45 Fed. Reg. 55668 (Aug. 20, 1980)). In 1981, similar pro forma requests were submitted by Mexico and Colombia, with the same results (46 Fed. Reg. 37115 (July 17, 1981)). Again, in 1982, similar scant petitions were submitted by Mexico and Jamaica, with the same rejection (47 Fed. Reg. 31095 (July 16, 1982)). No detail of changed circumstances was presented, and the petitions were properly dismissed. Despite this clear history of sensitivity and the August 1982 preliminary determination of injury in the ongoing countervailing duty investigation of orange concentrae from Brazil, Committee rules permit re-application again by June 1 of this year. The strict enforcement of the Committee's petition requirements, and at least a one-year moratorium on articles after sensitivity has been determined, would serve both to conserve administrative resources and focus the attention of the requester on the developmental purpose of GSP treatment

### 4. Import Sensitivity of Derivative Products

In annual reviews, greater emphasis should be accorded analysis of possible adverse effects of GSP eligibility on derivative products of import-sensitive articles. This is of particular concern in a highly integrated industry such as the citrus industry. Duty-free treatment has recently been extended to imports of orange and grapefruit oils, as well as orange fruit peel, despite past findings of sensitivity of these articles. The Florida growers and processors depend on production and competitive sales of these commodities as much as on citrus juices, and it is erroneous to assume that "oil" and "peel" industries can be segregated for purposes of examining the possible adverse economic mpacts of duty-free imports of such products. The expansion of orange production in developing countries, which may be encouraged by GSP treatment for oil and peel, will have obvious trade distoring effects in world markets as juice surpluses expand.

Consequently, Florida Citrus Mutual urges that the Committee require the submission by petitioners of information on basic and derivative products of articles subject to a request, especially in cases of highly integrated industry structures.

In conclusion, Florida Citrus Mutual supports the graduation principles enunciated by the Trade Policy Staff Committee in its last two annual reviews. A relative low level of imports of product into the United States, i.e., failure to approach competitive need limits, should not be the only criterion for determining whether a country has achieved the developmental goals envisioned by the GSP statute. A country's export performance in world and domestic markets should also be considered. Florida Citrus Mutual respectfully believes that these suggestions will help improve the GSP program in achieving its intended purposes, while assuring the competitive viability of U.S. industries in domestic and world markets.

Respectfully submitted,

Bobby F. McKown

Bobby F. McKown
Executive Vice President

McK:vb

## STATEMENT OF
## THE PLUMBING MANUFACTURERS INSTITUTE

The Plumbing Manufacturers Institute ("PMI") submits these comments in support of amending S. 1718, a bill to renew the Generalized System of Preferences ("GSP"), to provide for the exclusion of Taiwan from the GSP.

PMI is the national trade association representing over fifty American manufacturers of plumbing products from around the country. Industry products include faucets, gas and water fittings, stainless steel hoses, spray valves, stops, basket strainers, handles, showerheads, and other similar items. For several decades, PMI has spoken for the plumbing industry before administrative agencies, model code authorities and legislative bodies.

PMI members are vitally interested in the maintenance of free and fair competition in the domestic market, whether that competition is provided by American manufacturers or through imports of plumbing products from foreign countries. Many members themselves import products from abroad.

This concern for free competition and fair trade practices leads PMI to oppose the continuing designation of Taiwan as a beneficiary developing country ("BDC") under the GSP. Taiwan is a newly-industrialized country that does not need export incentives such as those provided by the GSP to compete in the United States market. Moreover, as we shall demonstrate, Taiwan's continuing BDC status contravenes the legislative policy underlying the GSP, conferring trade advantages on a country whose economy and living standards more closely parallel those of the United States rather than those of truly less developed countries ("LDC's") which were the intended beneficiaries of the GSP program.

The idea of a GSP had its genesis in the apparent decline in, and slow rate of growth of, exports from less developed countries in the years following the Korean War. It was generally believed that the program would enable LDC's to "bootstrap" their economic growth by making their exports more competitive with those of economically advanced countries. [1/]

GSP benefits should continue to be conferred on a BDC only so long as that country remains in need of assistance to evolve out of "less developed" status. Under the concept of "graduation," GSP benefits would be denied to those countries that have achieved a more advanced stage of economic development, thus preserving and increasing the remaining developmental benefits allocable to the GSP beneficiary nations that continue as "true" LDC's due to their lower stages of economic development.

Congress recognized the concept of country "graduation" in the GSP provisions of the Trade Act of 1974, 19 U.S.C. § 2461, et seq. Not only did Congress exclude 26 "developed" countries from designation as GSP beneficiaries, it specifically provided that the individual country's level of economic development "shall" be considered by the President as a primary factor in his discretionary selection of GSP beneficiary nations. 19 U.S.C. § 2462(c) provides, in part:

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[1/] See Kaye, Plaia, and Hertzberg, International Trade Practice, (1983), § 39.02 at 39-1-39.3.

> (c) In determining whether to designate any country as a beneficiary developing country under this section, the President shall take into account
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> * * *
>
> (2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which he deems appropriate;
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> * * *

Since these constitute the appropriate criteria for determining whether a country should be included in the GSP, it seems equally appropriate that they should serve as the criteria for ascertaining when a country no longer needs GSP export incentives. The legislative history of this provision and subsequent amendments demonstrate that both the Senate Finance Committee and the House Ways and Means Committee were of the view that the President should exercise his authority to bring about changes in the GSP program that would result in "effective graduation." 2/

Yet graduation is currently accomplished solely on a product-by-product basis, rather than by removing GSP beneficiary status from countries that no longer need it. The net result is that a few newly-industrialized countries dominate imports of GSP-designated products, thus receiving the "lion's share" of GSP benefits. In 1982, for example, Taiwan was the largest single

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2/ S. Rep. No. 249, 96th Cong., 1st Sess., reprinted in 1979 U.S. Code Cong. and Adm. News 381, 659.

beneficiary of the United States GSP program, accounting for nearly 28 percent of all GSP imports into the United States. [3]

But by any measure, Taiwan is among the most advanced of the BDC's, and thus would seem to be a prime candidate for graduation out of the GSP. This is clear upon an analysis of Taiwan's standing under the discretionary factors established by Congress for BDC selection in 19 U.S.C. § 2642(c)(2). According to Taiwanese government statistics, Taiwan's per capita income reached $2,360 in 1982. [4] Furthermore, the exports of most "developing" countries are heavily comprised of primary products such as metal ores and agricultural commodities. In 1952, raw and processed agricultural goods constituted 91.9 percent of Taiwan's total exports of $116 million, while industrial products accounted for a mere 8.1 percent of this total. By 1982, however, Taiwanese exports had reached $22,204 million and the shares of agricultural and manufactured goods had been reversed. Industrial products constituted 92.4 percent of Taiwan's 1982 exports, while raw and processed agricultural goods provided a mere 7.6 percent. [5] Those manufactured exports also demonstrated a sophistication uncharacteristic of a technologically backward, less developed country. For example, Taiwan's official statistics show that "electrical machinery apparatus" comprised 17.61% of total 1982 exports. This product sophistication is also evident in the total export shares of transportation equipment (4.92%), metal products (4.59%), plastic products (3.27%) and precision instruments (2.15%) [6/]

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[3] Source: Office of the U.S. Trade Representative.

[4] Council for Economic Planning & Development, Industry of Free China, May, 1983, p. 218.

[5] Council for Economic Planning & Development, Industry of Free China, June 1983, pgs. 14, 16.

Further evidence of Taiwan's progression to a newly-industrialized country is provided by an analysis of bilateral U.S.-Taiwanese trade from 1952 to 1982. In 1952, the total value of Taiwanese exports to the United States was $4 million. By 1982, this figure had risen to $8,759 million, enabling Taiwan to maintain an almost $4.3 billion trade surplus with the United States. [7/] Moreover, manufactured products accounted for nearly 97.8 percent of total Taiwanese exports to the United States. [8/] Clearly, Taiwan has no need for special tariff concessions to enhance the development of its industrial sector.

Another factor established by the Congress for the President's consideration in selecting a nation for BDC status was that country's standard of living. See 19 U.S.C. § 2462-(c)(2). Three key measures used to evaluate nations' comparative living standards are the relative life expectancies of their citizens, their infant mortality rate, and their literacy rates. Again, Taiwan's living standards are much more characteristic of

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6/ Council for Economic Planning & Development, Industry of Free China, May, 1983, pgs. 180-184.

7/ Council for Economic Planning & Development, Industry of Free China, June, 1983, p. 14.

8/ Id. at 14.

a nation in an advanced, rather than underdeveloped economic state. First, life expectancy for the average Taiwanese reached 72 years in 1982. This compares favorably with the 74 year life expectancy for the average American. 9/ Second, Taiwan's 1980 infant mortality rate of 14 per 1,000 live births 10/ was just above that of the United States, which posted a rate of 13 per 1,000 live births. Third, Taiwan's literacy rate of 89 percent 11/ is much closer to the figures posted by the United States and other western industrialized countries than those which are prevalent in less developed GSP beneficiaries such as Nepal or Bangladesh, which recently posted literacy rates of 19 and 26 percent, respectively. 12/

It would appear that less developed countries such as Nepal and Bangladesh have the greatest need for the economic development incentives provided by the GSP. Yet Ambassador William E. Brock has acknowledged that the world's least developed countries currently receive only one-half of one percent of the total United States GSP benefits. This skewing of GSP benefits toward the most economically advanced countries contravenes the original rationale for Congressional approval of the GSP and

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9/ Far East Economic Review, ASIA 1983 Yearbook, South China Morning Post, Ltd., Hong Kong, 1983, pgs. 8, 9.

10/ Gale Research, Countries of the World Yearbook - 1983; A Compilation of U.S. Department of State Reports, Detroit, Michigan, 1983, p. 1081.

11/ Countries of the World Yearbook at 1081.

12/ The World Bank, World Development Report-1983, Oxford Press, London, England, 1983, pg. 196.

lends further support to a "graduation ceremony" for newly industrialized countries such as Taiwan.

Another factor that Congress prescribed for the President to take into account concerning the designation of a BDC is "whether or not the other major developed countries are extending generalized preferential tariff treatment to such [a] country; . . ." 19 U.S.C. § 2462(c)(4). Most major developed countries do not grant BDC status to Taiwan. In 1984, in addition to the United States, only Japan, Austria, Australia and New Zealand granted BDC status to Taiwan. [13/]

Japan and Australia, the other two major industrialized countries which grant GSP status to Taiwan, enjoy a favorable trade balance with that nation. In 1982, Japan exported $2 worth of goods to Taiwan for every $1 worth of goods it imported from that country, while Australia enjoyed a small net trade surplus with Taiwan. [14/]

This trade pattern has not been the same for the United States, however. For the first six months of 1983, the U.S. took over 43 percent of Taiwan's exports, while providing just 23 percent of its imports. [15/] Moreover, the bilateral U.S.-Taiwanese trade deficit, which hit nearly $4.3 billion in 1982, was

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[13/] Report to the Congress on the First Five Years' Operation of the U.S. Generalized System of Preferences, (April 17, 1980), p. 6.

[14/] Industry of Free China, September, 1983, at 180, 194.

[15/] Id. at 180, 194.

reportedly running 32 percent above the 1982 rate for the first nine months of 1983. Given the fact of this tremendous bilateral trade imbalance, and with the overall U.S. merchandise trade deficit expected to hit $100 billion in 1984, it is clear that Taiwan does not need any export incentives which tend to widen the trade deficit.

Ambassador Brock has acknowledged the need for reallocating GSP benefits from the more advanced BDC's to the less developed BDC's "to the degree possible." 16/ However, Ambassador Brock's approach, and that of S. 1718, has been to push for lower "competitive need" limits, thus graduating specific export items from GSP status for individual countries rather than graduating the country from the GSP program because of its general state of economic development. 17/

While the Reagan Administration's increased emphasis on the "competitive need" limitations is a step in the right direction, it will not cure the problems presented by the more advanced BDC's such as Taiwan. This is due to the fact that the competitive need limitations are, and under S. 1718 will continue to be calculated on the basis of five-digit Tariff Schedules of the United States (T.S.U.S.) numbers rather than the

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16/ Letter from Ambassador William E. Brock to Hon. Dan Rostenkowski, Chairman, House Ways and Means Committee, dated July 12, 1983.

17/ See Statement by Ambassador William E. Brock before the Subcommittee on Trade, Committee on Ways and Means, House of Representatives, August 3, 1983.

seven-digit numbers which provide a much more thorough breakdown of the individual types of products imported. Consequently, a BDC can supply far more than 50% of total U.S. imports of a seven-digit product without suffering the loss of GSP eligibility for that product. See 19 U.S.C. § 2464(c).

As an example, many of the imported products that directly compete with those manufactured by PMI members are classified under T.S.U.S. 680.1410, which is entitled:

> Taps, cocks, valves, and similar devices, however operated, used to control the flow of liquids, gases, or solids, all the foregoing and parts thereof:
>
> Hand-operated and check, and parts thereof:
>
> 680.14 of copper
>
> 10 Under 125 pounds working pressure. . .

During 1981 and 1982, Taiwanese imports constituted approximately 65 percent of the total value of imported items classified under T.S.U.S. 680.1410. [18/] However, because Taiwanese imports apparently comprised less than 50 percent of total imports classified under the appropriate five digit T.S.U.S. number, 680.14, (which includes a much wider array of other types of industrial products) Taiwan was not subject to product graduation on a "competitive need" basis.

Accordingly, the revised competitive need standards, while a considerable improvement over those currently in effect,

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18/ Based on U.S. Customs data.

will not alleviate the problems posed to American manufacturers by GSP imports from advanced BDC's such as Taiwan.

PMI also submits that the Congress should seriously weigh the cooperation which the foreign governments have offered in stopping exports of unfairly traded goods to the United States in considering any extension of BDC status. The plumbing supply industry is currently beset with a rash of Taiwanese imports that are confusingly similar to products of American companies. Palming off, trademark and patent infringement have frequently occurred. The problems encountered by the "Delta" faucet, with its single lever control and distinctive design and recognition in the American market, are a good example. Recent imports from Taiwan under the "Atled" ("Delta" backwards) label have exactly the same design configuration as the American product. Delta currently has four suits pending, including a Section 337 action at the ITC. Other companies have experienced similar difficulties. One member reports that his catalog pictures have been exactly duplicated in Taiwanese sales brochures now being circulated.

These problems are not confined to the plumbing products industry, however. In a recent report, the U.S. International Trade Commission ("ITC") identified Taiwan not only as the world's leading source of goods that are counterfeits of U.S. products, but as the chief source of goods produced under practices similar to counterfeiting. 19/ From 1980 to 1982, Taiwan

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19/ The Effects of Foreign Product Counterfeiting on U.S. Industry, USITC Pub. 1479, January, 1984, p. xii.

accounted for 91 of the 151 counterfeit products identified by American companies that have been the victim of those counterfeits. And, in 1982, Taiwan alone was cited as the source of 65 items produced under practices similar to counterfeiting. [20/]

Although there are legal remedies which can be, and have been, pursued by our members, they are a costly and fragmentary approach to a multifaceted problem. It is essential that foreign governments cooperate with our Customs Service to eliminate these unfair practices at the source.

Any consideration of GSP extension to Taiwan should thoroughly assess the cooperation of the Taiwanese government in dealing with this nettlesome and important problem.

In conclusion, PMI believes that the best and fairest approach is for Congress to amend S. 1718 to provide for the graduation of newly-industrialized countries, such as Taiwan, out of GSP beneficiary status. This step would remove unneeded export advantages from the most advanced BDC's, while redistributing export incentives to those lesser-developed nations which need them most.

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[20/] Id. at xii.

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Statement submitted by David J. Steinberg, President, U.S. Council for an Open World Economy, to the Subcommittee on International Trade of the U.S. Senate Committee on Finance in a hearing on proposed renewal of the Generalized System of Preferences (S.1718)
January 27, 1984

(The U.S. Council for an Open World Economy is a private, non-profit organization engaged in research and public education on the merits and problems of developing an open international economic system in the overall national interest. The Council does not act on behalf of any private interest.)

Although it should have been structured differently in the framework of U.S. trade policy and of U.S. programs facilitating adjustment to freer world trade, the Generalized System of Preferences (GSP) merits renewal when the present statutory authority expires on January 3, 1985. As a minimum, renewal should be no more restrictive in its extension of preferences in the tariff treatment of imports from developing countries than S. 1718 (the Administration's proposal) now projects. However, the Administration's proposal itself does not measure-up to what the standard ought to be in this policy area.

There is merit in the Administration's intention, in the selection of beneficiary countries, to give increased weight to the readiness of these countries to provide adequate market access to U.S. exports. However, I sense in this proposed change, and in proposals for increased weight to the level of economic development of a candidate country and for "limitation of GSP treatment for highly competitive products from the more advanced beneficiaries" (Ambassador Brock's letter to the chairman of the House Committee on Ways and Means) devices (in some degree intended) to reduce substantially the scope of GSP tariff preferences. Re-allocation to the least developed countries of benefits denied to most-developed beneficiary countries could in some instances be tantamount to greatly curtailing the potentials for freer access to the U.S. market for the less-developed countries in general.

In other words, I have suspicions about the intended or unintended calculus of the Administration's proposals for renewal of the GSP program. Whatever the Administration has in mind, there is a huge void in the proposal, the same void I identified in 1975 in testimony before the International Trade Commission and the inter-agency Trade Policy Staff Committee. Namely, lack of a coherent strategy addressing any instances of adverse impact on weaker U.S. industries, and helping these industries adjust to these duty-free imports from developing countries, even before convincing cases might be made for import relief under the Trade Act of 1974. Government attention to such problems need not and should not wait for them to escalate to hardship definable as "serious injury" (or threat of "serious injury") under the import-relief provisions of the Trade Act. Existing laws and regulations materially affecting these industries may have inequities that seriously and unfairly hamper the adjustment capacities of these industries. Such faults should be corrected without delay.

To the extent that GSP was justifiable as an initiative unrelated to a comprehensive free-and-fair-trade strategy to which the United States and the other industrialized countries should have raised their sights, it should have been made a prototype for successfully programming sustained implementation of free access to the U.S. market (and those of other industrialized countries) for all exports from the world's less-developed countries (ultimately from the advanced countries as well).

In proceeding with this program (it should have been done at the very outset), the Administration should be addressing the question, not of which products to include in the tariff-preference process and which to exclude, but of which industries in the United States are likely to have serious adjustment problems in the wake of such duty-free entry, and the kind of government assistance that would be most constructive. The International Trade Commission should have been focusing, not on "peril point" judgments on what industries would not be able to cope with such reductions in trade barriers (a fanciful chore unworthy of a commission even composed of greats like Frank Taussig and Ben Dorfman), but on the current and anticipated adjustment problems of affected industries, and the kinds of adjustment assistance the government might consider providing, i.e., short of maintaining or raising trade barriers.

It should be recognized that exemption of a product from tariff-free preferences to developing countries is itself a form of government help, involving a cost to other sectors of our economy and to our foreign economic objectives. No form of government assistance to an ailing industry makes policy sense except a coherent, comprehensive, carefully monitored policy of constructive aid to an industry whose problems have been carefully diagnosed in the context of sound economic standards and the overall imperatives of the national interest. It is high time the government stopped using additional trade barriers, or retaining old ones, as the sole or primary instrument of industrial assistance. Readiness to program the removal of all import restrictions would in fact spur government and the affected industries to face up to adjustment problems in the most effective manner, rather than sweeping them under the rug by misguided recourse to import controls, old or new.

It is unfortunate that various products have been legislatively exempted from tariff negotiations, and even more of them from duty-free preferences to developing countries. It would be even more unfortunate if the Administration added to this list. A major cost of such a retreat from freer trade would be the weakened credibility of U.S. concern with the aspirations of under-developed countries -- areas of the world that are crucial in various ways to the economic viability of our own economy. The United States must stop playing games -- dangerous games -- with the southern half of this shaky world's shaky economy. Even if the government did not expand the existing list of exemptions, there is still the escape-clause sword of Damocles hovering over countries that might successfully use these preferences. There is also the U.S. government's proclivity to seek "orderly marketing" agreements as a sophisticated form of protectionism that avoids the crudities of unilateral import quotas -- a ploy that often seems to anesthetize many self-styled "free traders".

If it is compellingly necessary, in extreme cases, to exclude certain products from tariff-free preferences because of clear, present and extraordinary problems of import impact, such exclusions should be only temporary and should immediately spark adjustment-assistance efforts calculated to qualify these products for tariff removal as quickly as possible. Such reforms in the handling of import restriction should be integrated into the comprehensive free-trade strategy that needs to be undertaken with deliberate speed, as our Council alone has been urging for many years.

## THE RENEWAL OF THE UNITED STATES SYSTEM OF PREFERENCES
## CONSIDERATIONS FROM ANDEAN GROUP GOVERNMENTS

The member countries of the Andean Group have in previous occasions stated their criteria on the importance of the United States Generalized System of Preferences, (G.S.P.), that took effect as of January 1, 1976, based on the Trade Act of 1974 and whose expiration will be in January of 1985.

The member countries of the Andean Group, within the framework of the Memorandum of Understanding signed in November of 1979 with the United States Government, wish to present their points of view on the United States Generalized System of Preferences.

Within the context of an open international trade policy, the Generalized System of Preferences has been acknowledged by all the beneficiary countries as a stimulating instrument for increasing the exports from less developed countries and at the same time as a useful mechanism which helps create a greater commercial exchange with developed countries. This mechanism permits the duty advantages to play a balancing role in the bilateral commercial relations.

In the context of the present economic situation at the international level, the trade relationship between the developing countries and the industrialized countries are of substantial disadvantage to the former. In fact the prices of the main export products of the developing countries, particularly raw materials, maintain the levels which they had two decades ago. This contrasts with the increasing prices of intermediate products and inputs necessary for the development of the developing countries. Because of this, the terms of trade of developing countries continue to deteriorate.

On the other hand, important commodities from the Andean Group do not obtain profitable prices in the international market mainly because of the unfair competition offered by the highly subsidized production and exports of similar products by industrialized countries. Faced with this reality, the Andean Group has resolved to stimulate the establishment of small but efficient industries to compensate for these disadvantages.

With this purpose, each of the Andean countries has introduced a group of measures and policies backing the private sector. Special attention has been given to foreign investors which primarily come from the United States. Exports have also received great importance and support, since the future of the Andean economies is determined, to a large extent, by their export potential. Nevertheless, these new activities are presently facing serious access inconveniences to the markets of the industrial countries. All this important effort would be jeopardized if confidence does not exist in the continuity of the preference mechanism operating within the United States. A significant percentage of the Andean countries' exports are destined to this market.

It is desirable once more to underline the great importance that the Generalized System of Preference of the United States holds for the Andean Group. The renewal and, at the same time, the broadening of its benefits is considered absolutely necessary through a clear, legal, and precise framework that allows the beneficiary countries to maintain trust in the system while becoming a support mechanism to the development of the export activity.

It is worthy to recall that the International Trade Commission of the United States in its report "Appraisal of the United States Imports under the Generalized System of Preferences" concludes that of total U.S. imports, excluding oil, imports under the GSP were 4.9%, and including oil, it only represents 3%. U.S. imports coming from the Andean Group merely reached 0.1% of total U.S. imports.

Also important are those observations made by the International Trade Commission itself concerning the factors that constrain the degree of penetration within the U.S. markets. These are, among others: 1) the limited spectrum of elegible products; 2) the selective nature of the GSP which tends to exclude the imports of so-called "sensitive" products; 3) the tendency to include products in the GSP with moderate tariff rates; 4) the competetive clauses, the yearly review system and the concept of graduation; and, 5) the limitation on production existing in the beneficiary countries.

Within this context, the enacting of the GSP by the U.S.

created hope within the beneficiary countries to attain greater expansion in their foreign trade. On the other hand, it must be pointed out that the sectors of production and consumption obtain mutual benefits from the GSP, which allows the production of lower cost goods offering the U. S. consumer the same satisfaction as more expensive products with an additional savings margin.

The delegations of the Latin American countries attending the Technical Meeting of the Permanent Executive Commission of the Inter-American Economic and Social Council,(CEPCIES), of the Organization of the American States (OAS) which was held in Panama in June 1983, agreed to convey to the U. S. government their views with respect to the renewal of the U.S. GSP. In addition, comments were made to make it more effective. The U. S. Delegation was receptive to these comments. The Andean countries hope that these suggestions will be taken into account by the Honorable Congress of the U. S. on the occasion of the renewal of the GSP.

It is the opinion of the Andean Group that the renewal of the U.S. GSP should contemplate the criteria which is described below in order to optimize the benefits it provides.

## I GRADUATION

The existence of the "graduation" criterion fosters a a climate of uncertainty and instability in the export Industries of the beneficiary countries of the System: this inhibits programming and execution of new investments.

The purpose of reserving a substantial part of GSP benefits for the least developed countries may distort and restrain the capability for improving production procedures and technologies in sectors which might become competitive to some degree.

On the other hand, the withdrawal of benefits by graduation has infringed upon international commitments such as Resolution 6 (X) of UNCTAD's Special Comittee on Preferences which recommends that any withdrawal or elimination of benefits be made through prior consultations and by taking into account the needs and interests of beneficiary nations.

The "Enabling Clause" (GATT decision of November 28, 1979 L-4903), constitutes the juridical basis for the granting of special and differential treatment to the developing countries. Whatever modification introduced in the GSP should preserve the internationaly agreed upon principle, that the system is "generalized, not reciprocal and non discriminatory".

## II COVERAGE OF PRODUCTS

A great effort has been made by the countries of the Andean

Region in support of the exporting and industrial activities. The renewal of the Generalized System of Preferences should extend the System's benefits to products over which the Andean Group has certain comparative advantages in order that they may gain entry into the United States market. This extention would support the efforts of the Andean region towards their development and industrial diversification, and would enable more open competition of similar products with those of the developed countries which enjoy substantial technological advantages and a wider market.

In order to incorporate a greater number of articles from the Andean Group in the GSP list it is recommended that appropriate rules be included in the GSP renewal to allow for splitting and/or setting up new U.S. tariff schedules (TSUS).

A serious problem would result through the adoption by the United States of an individual nomencalture different from the one internationally accepted, that is, the Brussels Tariff Nomenclature, which served as a basis for structuring the Andean Group Tariff System. The existing differences between both systems make it difficult to establish proper correlation of the tariff schedules, something that would be resolved with a just approximation by the splitting of the tariff schedules.

At the same time it is expected that the new disposition should contain more flexible procedures for submitting applications of the beneficiary countries.

## III QUANTITATIVE LIMITATIONS

The countries of the Andean Group consider the clause on "Competitive Need" as an element which restricts development. Therefore, the Group requests that the 50% limitative criterion be eliminated, or at least that new parameters be affixed in a more realistic way and in proportion to the present world trade and particularly to that of the United States. It should be taken into account that the continuous deficit in the trade balance of the Andean Group with the United States, is a factor which worsens the economic and financial situation of the Group.

It is convenient that the new law of the Generalized System of Preferences establish an adequate mechanism to determine realistically the reasons for withdrawing a benefit. It is suggested to adopt the criterion that preferential imports could cause substantial injury to the domestic industry of the United States. It is also suggested that the loss caused by the elimination of any GSP concession, should be evaluated in order to allot a compensatory benefit, thus, avoiding the reduction of the beneficial level.

## IV RULES OF ORIGIN

The Andean Group considers that U.S. legislation on this matter is complex and conducive to confusion. Therefore, it requests that GSP regulations define the concept of "substantial transformation" and permit that, in addition to administrative expenses, the value of U.S. imported inputs be considered among direct costs of operation for the purpose of estimating the 35 percent of national aggregate value.

Finally, the countries of the Andean Group deem it convenient to increase to significant levels the present maximum level in the "de minimis" clause. The Group considers it necessary to have wider margins of equilibrium for the products that benefit from the system; this measure would contribute to avoid sudden and harmful additional deficits in their trade balances with the United States.

Washington, D. C., 16of February, 1984

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AMBASSADOR OF BOLIVIA

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AMBASSADOR OF VENEZUELA

EMBASSY
OF THE
ARGENTINE REPUBLIC
OFFICE OF
ECONOMIC COUNSELORS

The Embassy of the Republic of Argentina through its Economic Counsellors Office, has the honour to address the U.S. Senate Finance Committee and is pleased to have this opportunity to comment on the renewal of the authority of the President under Title V of the Trade Act of 1974 to grant duty free treatment on elegible articles from beneficiary developing countries under the Generalized System of Preferences (GSP).

Taking into account the difficult economic situation Argentina faces today, it is of special interest to the Government of Argentina that the GSP be renewed in accordance with the principles which originated it, that is to say, a non-discriminatory and non-reciprocal preferential system to assist developing countries by granting generalized preferences with respect to imports of products of such countries, which favors their exports.

The main purpose of the preferential tariffs system is to increase the export revenues, promote the industrialization and acceleration of the economic rate of growth of developing countries so that they may be able to finance the increased demand for imports needed for their economic development.

The access to the markets of developed countries, by means of generalized preferences, plays an important role in the promotion of the economic growth of developing countries, by helping them become more diversified in their production of goods, which permits the increase of their exports, thus allowing them to repay their debts.

The situation of the developing countries in general, as it happened to Argentina, worsen on account of the second petroleum shock, which took place between 1978 and 1979 when the industrialized countries, specially the U.S., reacted by applying very restrictive monetary policies in order to stabilize prices. They also made use of deficitary fiscal policies which did not adjust to their monetary policies. All of this directly affected the developing countries.

Furthermore, because of the recession most developed countries have been experiencing, there has been an increase in restrictive trade practices which have prevented and continue to prevent developing countries from making use of their export capacity, increase it or diversify their production to become more competitive in the market place. Consequently, the export revenues of those countries have diminished, for demand has also diminished on account of the recession. In turn, export prices for basic products also have suffered a decline.

Although, the real problem developing countries such as Argentina face today is a problem of their heavy external debt, also is a problem of revenues: the continuous increase in the cost of debt services takes up more and more a higher proportion of revenues originating from declining exports in volume and value.

The only way to eliminate the crisis those countries are presently experiencing is by generating higher revenues. This can only be achieved by means of increasing international trade. Foreign exchange earnings are a vital component of the revival of the economic growth of developing countries.

To this aim, industrialized countries such as the United States must put into practice systems that will allow, not curtail, the growth of exports from developing countries, maintain the free trade system , and also resist internal protectionist pressures. Moreover, protectionist measures impede the recovery of the industrialized countries and the economic expansion in general.

In sum, in the specific case of the United States, it is in everybody's interest to renew the Generalized System of Preferences in accordance with the principles which, as mentioned earlier, were the basis for its establishment. GSP has made to a certain extend an important contribution to the well-being of those nations suffering from severe economic difficulties.

The Generalized System of Preferences is one of the, if not the best tool the United States has to help those countries overcome their defficiencies. GSP is also the best way for the United States to promote itself as the world leader for free trade.

GSP benefits the United States principally by increasing developing countries' ability, among them Argentina, to purchase U.S. products.

Also, in the particular case of Argentina, the foreign exchange it earns, from its exports to the United States enables Argentina to service its substancial debt to U.S. banks. Market opportunities for Argentina's exports are therefore important for the maintenance of the health of some major U.S. banks, and to the health of the U.S. banking system itself. If Argentina cannot repay its debts, most likely the U.S. banking system will encounter serious problems.

The U.S. economy as a whole benefits from GSP since cheaper imports have a salutory effect in stimulating competition and restraining inflation. Moreover, cheaper imports of intermediate goods improve the competitive posture of final U.S. products both in the domestic market and abroad. The importance of GSP imports should not be overemphasized in view of their small percentage of overall U.S. imports.

GSP imports accounted for 4.9 percent of total non-petroleum imports in 1982.

As stated by the Chairman of the United States International Trade Commission in his presentation before this Committee on January

27, 1984, "....we should not attribute the 4.9 percent ratio of GSP imports to total imports entirely to the GSP program. Undoubtedly, many of these articles would have been imported from beneficiary countries whether or not a GSP program existed...."

"....GSP imports have not resulted in significant increases in the overall import share of the U.S. market...." ".... Overall GSP imports accounted for approximately 0.5 percent or less of apparent U.S. consumption during the 1978-82 period...."

On the other hand, there is little evidence that GSP has injured specific U.S. industrial or agricultural producers.

Furthermore, it is reasonable to assume that to improve their competitive edge, U.S. importers, who gain a greater portion of the duty savings from GSP, pass on at least some of these savings to intermediary and end-users of their products in the United States. The result is an increase in the U.S. standard of living and lower prices as well.

The benefits to developing countries from GSP are clear. GSP gives imports from beneficiary countries a competitive edge over imports from other, non-GSP competitors. While the margin of preference GSP provides may be small, it has been important in enabling nascent industrial sectors of those countries to compete in the U.S. market. By encouraging industrialization, GSP contributes to economic growth and political stability.

On the other hand, GSP imports do not affect U.S. producers of competing products significantly more than do non-GSP imports of identical merchandise. The average tariff paid on dutiable imports of products which compete with GSP eligible products from beneficiary countries will decline to approximately 4 percent when tariff reductions negotiated during the Multilateral Trade Negotiations are fully implemented. Thus the margin of benefit from SGP is small. The fact that so few petitions to remove products from GSP have been filed with USTR is clear evidence that GSP imports are not creating significant problems for U.S. producers of competing products. The 1983 USITC report reviewing the operations of GSP did not indicate that there were any significant amount of import sensitive imports under the program.

Moreover, GSP is an effective form of development assistance to developing countries. It could be considered a substitute for direct aid, contributing to put beneficiary countries on the path to self-sustained growth, stimulating business activity through trade opportunities.

Consequently, let's not limit the GSP goal by permitting that it not be renewed or by allowing that it be limited with a series of provisions which directly or indirectly exercise an influence on the benefits developing countries receive. Developing countries need to survive with the help of a program such as GSP. Therefore, at this critical time, its benefits should be expanded, not cut back.

It is the understanding of the Republic of Argentina that the System has to be renewed, introducing some changes toward the elimination of a series of provisions presently in force, which do not respond to the original expectations of the beneficiary countries.

For example, in the case of Argentina, an anlysis of its exports to the U.S. shows that during the period 1976-1980 a 64 percent of the total exported were non-GSP products, while 36 percent represented products that benefitted from the system. In 1982, only a 30.9 percent were GSP exports, from a 40.7 percent corresponding to the exports of GSP products made during 1976.

The low utilization of GSP on the part of Argentina is mainly due to the application of limitative measures. For example, the exclusion of products through the competitive need clause continues to be the major limitative element of the system.

In summary, to the situation previously mentioned regarding the problem of the external debt of developing countries such as Argentina, exacerbated by economic policy measures adopted by the U.S., one must add the possible introduction of reforms to mechanisms such as GSP.

These reforms do not take into account the reiterated modifications suggested by Argentina. On the contrary, they grant, among other, a legal base to principles which were sistematically rejected by Argentina, such as graduation and reciprocity.

In the case of reciprocity, it is counterproductive to both the United States and developing countries, to demand increased access to their markets. Reciprocal concessions would drain scarce foreign exchange needed to service existing debts and reduced access to the U.S. market will cut back foreign exchange earnings. Other industrial countries have renewed their GSP programs without seeking reciprocal concessions. A unilateral demand of this sort of the part of the U.S. would be inconsistent with concepts of international burden sharing. The GATT "exception" for trade preferences to developing countries is based upon the premise that they will be extended on a "non-reciprocal" basis.

As stated by the Secretary of UNCTAD in his presentation before the Office of the United States Trade Representative last year, "....attempts to obtain reciprocal concessions from developing countries as the price of maintaining preferences would not only be inconsistent with the spirit and the letter of GSP, but also would be illogical. Reduced trade barriers in developing countries would not lead to greater imports, since their total volume of imports is limited by foreign exchange availablities, with the latter being heavily dependent on their access to markets....."

"....The developing countries have provided the most dynamic import market in recent years, a factor which has helped to mitigate the effects of the cyclical distortions in developed countries. This dynamic element has clearly come to an end, not because of factors inherent in the economies of the developing countries, but because their capacity to import has been stifled by protectionist measures, often of a discriminatory nature, in their main markets, the collapse of the prices of primary commodities, and an almost insupportable debt-servicing burden....".

In reference with the graduation concept, it must be pointed out that the whole concept of graduation has a tremendous effect over the export revenues of GSP beneficiaries, especially as proposed in S.1718. For example, in the particular case of Latin American countries, industrial production remains generally uncompetitive with that from developed countries. In this sense, the application of a graduation policy is premature, for although some areas of Latin American nations can be considered industrialized, graduation for an entire country on such basis would unfairly and unwisely eliminate from eligibility the underdeveloped sections of those nations whose per capita incomes are far below those of industrialized countries.

One of the main arguments for graduation is that GSP benefits should be spread more equitably among beneficiaries. It is claimed that if the share that goes to the more competitive beneficiaries is reduced, the share available for the other beneficiaries will increase proportionally. The spread of benefits is in large measure a function of the productive and export capacities of beneficiaries; thus the denial of preferential treatment to the "competitive" beneficiaries is unlikely to be to the advantage of other beneficiaries, with a lesser export capacity. A wider spread of benefits under GSP could be achieved only if the product coverage was enlarged to include products of particular interest to a large number of less developed beneficiaries.

It is impossible to avoid the conclusion that graduation is inconsistent with the fundamental principles of GSP.

The concept of graduation is unnecessary, controverted, arbitrary and incompatible with the needs of the developing countries. The less developed countries on their part, require other types of additional measures.

Argentina believes that the application of the graduation and reciprocity concepts, apart from not taking into account the principles which gave birth to the Generalized Preferences Systems, constitute an obstacle for access to the U. S. market and an element of pressure for the treatment of subjects foreign to this mechanism.

Furthermore, it could sooner or later complicate U.S. relations also with the other OECD preference-giving countries which attach great importance to the maintenance of equitable burden sharing. Clearly, if any preference-giving country felt that it was shouldering more than its proper share as a result of actions by others, it would be quickly moved to take similar action and ultimately the GSP benefits would be wiped out.

Finally, Argentina hereby makes valid the following proposals and claims that were approved at meetings that have taken placed at different forums over the last couple of years:

1. The inclusion of products of special interest for developing countries, among them Argentina, which could coincide with those products the United States agreed to a reduction of tariffs negotiated at the Tokyo Round.

2. The rejection of any graduation policy which considers the granting of the same treatment to beneficiary countries, considered as countries of major relative development, as that applied to developed countries.

3. The automatic redesignation of temporarily excluded products. That is to say, when the import volume of a product does not exceed the competitive need limit, it should be automatically redesignated.

4. A more flexible application of current administrative procedures regarding requests for inclusion of products, given that they are so rigorous that it becomes almost impossible in practice to fulfill them.

5. A broader subdivision of TSUS item classification, especially in the case of manufactured articles, and also for typical as well as handicraft products. The United States has indicated that it intends to fulfill this request.

6. More flexibility in applying the law in relation to rules of origin, especifying the concept of substancial transformation, in such a way that the production costs, administrative costs, and other productions costs incurred by the beneficiary countries be taken into account.

7. The elimination of the mandatory exclusion for categories of products.

8. Not to exclude GSP products coming from developing countries through the application of safeguard measures.

9. The elimination of the 50 percent limitative criteria given that it constitutes an element of great uncertainty for the beneficiary countries, even though this restriction has been lessen through the "De Minimis" amendment.

The 50 percent limitative criteria is not flexible enough to accomodate to special factors likely to occur. Here again, the removal of products due to this criteria does not take into account whether trade of a specific product is likely shifting from a developing country to an industrialized country or to a less-developed country or countries, thus becoming almost impossible to avoid that which the 50 percent criteria is supposed to avoid: the overabundance of imports of a particular product.

10. **A permanent GSP.** Continuity in GSP provides an opportunity to the exporter to plan and rationalize its production process. The objectives of GSP, as stated by UNCTAD at the conception of the idea were: to increase export earnings, to promote industrialization and to accelerate the pace of economic development. With a temporary GSP, there is no assurance that the preference will remain, and hence it is difficult to justify diversification and investment. The extension of GSP should permit this, especially if it is put in force for an indefinite period.

The Government of the Republic of Argentina is confident that the Honorable Members of the U.S. Senate Finance Committee of Congress will take into consideration the views expressed in this statement when analysing the different alternatives for the renewal of the U.S. Generalized System of Preferences and that the final decision on legislation will prove beneficial to all interested parties involved.

The Embassy of the Republic of Argentina, through its Economic Counsellors Office, renews to the Honorable Members of the U.S. Senate Finance Committee the assurances of its highest consideration.

CONSEJERIA ECONOMICA

ECS ECONOMIC CONSULTING SERVICES INC.

February 17, 1984

Mr. Roderick A. DeArment
Chief Counsel
Committee on Finance
Room SD-219
Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. DeArment:

I wish to submit the enclosed statement on behalf of the Headwear Institute of America and the Amalgamated Clothing and Textile Workers Union, AFL-CIO, to be placed in the Committee's hearing record on S. 1718, the Administration's plan for renewing the Generalized System of Preferences. I have enclosed an original and five copies of the statement, as requested by the Committee in Press Release No. 84-103.

Sincerely,

Mark W Love

Mark W. Love
Vice President

Enclosures

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# STATEMENT OF

# THE HEADWEAR INSTITUTE OF AMERICA, AND
# THE AMALGAMATED CLOTHING AND TEXTILE WORKERS UNION, AFL-CIO

SUBMITTED TO

THE SUBCOMMITTEE ON INTERNATIONAL TRADE
OF THE COMMITTEE ON FINANCE OF
THE UNITED STATES SENATE

ON

THE RENEWAL OF THE
GENERALIZED SYSTEM OF PREFERENCES, S. 1718
HEARING HELD ON JANUARY 27, 1984

February 17, 1984

# STATEMENT OF THE HEADWEAR INSTITUTE OF AMERICA AND THE AMALGAMATED CLOTHING AND TEXTILE WORKERS UNION, AFL-CIO, SUBMITTED TO THE SUBCOMMITTEE ON INTERNATIONAL TRADE OF THE COMMITTEE ON FINANCE OF THE UNITED STATES SENATE ON THE RENEWAL OF THE GENERALIZED SYSTEM OF PREFERENCES, S. 1718

February 17, 1984

The following statement presents the views of the workers and firms of the U.S. headwear industry on renewal of the Generalized System of Preferences (GSP) and recommended revisions in the program. Specific comments of the industry on the renewal legislation proposed by the Administration are also provided. The statement is submitted on behalf of the Headwear Institute of America (HIA) and the Amalgamated Clothing and Textile Workers Union, AFL-CIO (ACTWU). The HIA is a trade association whose members account for the majority of domestic production of headwear. The ACTWU has a membership of more than 500,000 workers, who include thousands of employees engaged in the production of headwear.

As an indication of the import sensitive nature of the hat and cap industry, all cotton, wool and man-made fiber headwear imports are covered under the Multifiber Arrangement (MFA), and are thus exempt from inclusion in the list of GSP-eligible articles, as provided in Section 503(c)(1)(A) of the Trade Act of 1974. Cotton, wool, and man-made fiber headwear imports in 1982 amounted to 8.9 million dozen and accounted for 54 percent of the total quantity of headwear imports in 1982. In 1983, these headwear imports amounted to 10.1 million dozen and accounted for 48 percent of the total quantity of headwear imports.

Despite this recognition in the statute of the import sensitivity of the headwear industry, all headwear other than cotton, wool, and man-made fiber headwear covered by the MFA are currently on the list of GSP-eligible items. This wide range of headwear enters the United States under thirty-one separate TSUS items. Imports of GSP-eligible headwear reached 7.7 million dozen in 1982 and accounted for 46 percent of total headwear imports. In 1983, imports of GSP-eligible headwear amounted to 11.1 million dozen and accounted for 52 percent of total headwear imports.

The position of the American headwear industry on the GSP issues being considered by the Subcommittee can be summarized in three basic points.

First, the industry cannot understand, accept, or find any justification for maintaining the difference in GSP treatment of headwear made from cotton, wool, and man-made fiber as opposed to other types of headwear which also compete directly with U.S.-produced headwear. There is no rational basis for this differential treatment for many types of headwear from the point of view of either the market impact of imports or the production process.

Domestic production of headwear of such materials as straw and leather is just as import sensitive and experiences the same problems of market disruption from imports as headwear made from cotton, wool, or man-made fiber. Many of the GSP-eligible headwear articles even compete directly with non-GSP eligible articles in the market. Indeed, many types of GSP-eligible headwear are made on much of the same equipment, using the same production techniques and same work force, as GSP-exempt headwear. Thus, the industry believes that the differential treatment of different types of headwear under the GSP program should be changed and that headwear imports that compete with U.S. production should be exempt from GSP duty-free treatment.

Second, the industry finds no basis for continuing to provide GSP benefits to a number of advanced developing countries. Countries such as Taiwan and Korea have large, modern, well-developed headwear industries which are fully competitive with the U.S. industry. Massive and growing quantities of imports already enter the U.S. market from these countries, imports which have caused injury to American workers and firms and disruption to U.S. markets.

These countries have no need whatsoever for the additional benefits accorded by GSP. This reality is most clearly evident by the fact that Taiwan and Korea, two of the most advanced developing countries, account for huge and growing quantities of U.S. imports of cotton and man-made fiber headwear, headwear which is not even eligible for GSP benefits. For example, between 1976 and 1983 combined imports of cotton and man-made fiber headwear from Korea and Taiwan rose from 1.5 million dozen to over 7 million dozen, capturing a huge share of the U.S. market in the process. Thus, in 1983 alone more than 84 million hats and caps of cotton and man-made fiber entered the U.S. from Taiwan and Korea. These two countries alone account for 72 percent of total imports of cotton and man-made fiber headwear.

This is but one example of the tremendous capacity and level of development of the headwear industries in these countries and the success they have had even without GSP benefits. This reflects the ability of such advanced developing countries to dominate foreign supply of headwear to the U.S. market to such an extent that they preclude other less developed and more needy countries from obtaining the trade benefits which the GSP program was designed to offer. The continuation of GSP benefits for rapidly industrializing developing countries with highly competitive headwear industries does a disservice both to the domestic industry and to the most needy foreign countries.

Third, the headwear industry finds the Administration's proposed legislation to renew the GSP program wholly unacceptable, and far worse than even the current program. The domestic headwear industry has already experienced first-hand the excessive discretion already in the hands of the Executive Branch, the excessively time-consuming and expensive procedures that are involved in attempting to remove an article from the GSP-eligible list, and the unwillingness of the Executive Branch to remove any article from the list. The industry spent more than a year and a half attempting to remove sewn straw headwear from the list of GSP eligible items. Total imports of these items rose from 58,160 dozen in 1976 to 120,823 dozen in 1981, while imports entering duty-free under GSP surged from 10,194 dozen in 1976 to 76,097 dozen in 1981. This import surge caused substantial injury to domestic manufacturers.

The domestic industry filed a petition in June 1981 and presented its case before the GSP Subcommittee of the Trade Policy Staff Committee in September 1981. Unable to make a decision, on February 26, 1982 the Office of the United States Trade Representative (USTR) requested the U.S. International Trade Commission to provide advice on the issue, which caused considerable delay. The ITC was not able to hold a hearing until July 1982, and the ITC's final report was not released until November 1982, nearly a year and a half after the petition was initially brought before the USTR and long after the import surge had affected the domestic industry.

Because of the strong fashion element of demand for headwear, the life cycle of demand for many types of headwear is relatively short. By the time USTR was prepared to make a decision, demand for the product at issue had virtually disappeared, and the injurious impact of duty-free imports had long since taken place.

Currently, there are competitive need limitations on both the absolute value of imports allowed from each country and the percent of total imports beyond which any one country is no longer eligible for GSP benefits. These competitive need limitations of $53.3 million and 50 percent of total imports, respectively, have been far too high, particularly with respect to low unit value consumer products, such as headwear. Imports of $53.3 million of any kind of headwear represents a tremendous loss of sales, production, and employment in the domestic industry. According to the ITC, the total value of domestic shipments in 1981 was only $70.8 million.

Rather than making these competitive need limits more restrictive, at least for the more advanced developing countries, the industry understands that the President is seeking authority to waive completely the competitive need limitations if it is in the "national economic interest of the United States," and if the "country has assured the U.S. that it will provide equitable and reasonable access" to their markets.

The Administration's proposal places far too much discretion in the hands of the President for the maintenance and liberalization of GSP benefits. The Administration clearly intends to use GSP as a negotiating tool to persuade developing countries to open their markets in turn for preferential treatment. This arrangement can only be at the expense of the U.S. import-sensitive industries, as well as at the expense of the developing countries most in need of preferential treatment. Indeed, this approach can only enhance the position of the advanced developing countries.

Equally troublesome is the prospect that import sensitive industries such as the headwear industry may be even more fully exposed to duty-free imports by the U.S. Government merely on the basis of idle fantasies about other developing countries opening their markets. The more advanced developing countries such as Mexico, Brazil, Taiwan, and Korea have been among, and continue to maintain, the most protected, closed markets in the world. Indeed, in the case of such countries as Mexico and Brazil, these practices are now being given the blessing of the U.S. Government because of the financial problems these countries are experiencing.

A serious question arises as to exactly what assurances of market access will be acceptable to the U.S. in order to justify maintaining or even liberalizing GSP benefits under the proposed legislation.

There is little evidence to suggest that developing countries will give more than lip service to opening up their markets or that the U.S. will insist on any real improvements. Indeed, the historical willingness of the

U.S. trade policy makers to "give away the store" to foreign countries with little concern for the impact on American workers and firms gives no grounds for confidence that the proposed legislation will be anything less than a disaster for import-sensitive industries.

Any renewal authority must, without discretion, absolutely reduce the level of benefits, especially for the advanced developing countries. This is particularly important given the demonstrated unwillingness of the Executive Branch since the beginning of the program to exempt products from the list of GSP-eligible articles, regardless of the import sensitivity of the industry. The headwear industry has experienced this unwillingness first-hand as described above, and believes it is wholly improper for the U.S. government to treat American firms and workers as second class citizens compared to foreign interests when it comes to providing or withdrawing extra, preferential trade concessions above and beyond those negotiated through GATT.

**NATIONAL FOREIGN TRADE COUNCIL, INC.**
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February 16, 1984

## GENERALIZED SYSTEM OF PREFERENCES

The National Foreign Trade Council strongly supports a ten-year extension of the statutory authority for the U.S. Generalized System of Preferences (GSP) which is due to expire on January 3, 1985.

As part of a long-term policy of strengthening and diversifying developing economies and lessening their dependence on foreign aid, the GSP program has provided duty-free treatment for certain products imported from eligible LDCs. Eligibility has been limited by various economic and political restrictions, as well as the requirement that the level of development and respect for trade equity be taken into account.

According to the International Trade Commission, GSP has not had a significant impact on U.S. imports. Over 40 percent of the value of otherwise eligible products has been denied duty-free treatment. Furthermore, in the eight years of its operation, the program has been administered in a manner which has avoided excessive disruption to particular industries or the economy. GSP imports averaged 0.5 percent or less of total U.S. consumption in 1981, and, in cases where GSP imports have increased their market share, they were primarily substitutes for developed-country products.

On the other hand, despite restrictions and despite the fact that general tariff reductions have reduced the relative benefit of duty-free status, GSP has had a beneficial impact on many developing nations. GSP encourages the economic development through trade, rather than aid programs. In 1982, for example, $8.4 billion of U.S. imports received GSP duty-free treatment.

This trade flow and consequent economic development has been of direct benefit also to U.S. exporters and U.S. investment in developing countries by generating dollar reserves available for purchase of U.S. goods and services. Developing countries as a group represent our potentially largest and fastest-growing export market. Additionally, sustained export flows from these countries will help to provide resources to meet their international debt obligations.

### NFTC Recommendations

While we strongly support extension of GSP, we recognize that a number of countries which are beneficiaries of the GSP program have developed to the point of becoming strong international competitors in a growing number of markets and products previously dominated by developed countries.

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Ways must be found to accomodate the economic emergence of these countries and to encourage them to assume some of the responsibilities of the international trading system ("graduation"). The newly industrialized countries should be encouraged to reduce trade and investment barriers for goods and services.

The Administration has proposed that GSP renewal include a new statutory emphasis on the level of economic development of a beneficiary and on the degree of market access afforded to U.S. goods and services. In cases where GSP benefits to a more advanced country might be limited on the basis of its highly competitive products, the Administration's proposal would allow such a limitation to be waived in the event the country should agree to liberalizing measures. The Administration would also attempt to ensure that the least developed beneficiary countries receive the maximum benefits possible under the system.

The NFTC strongly supports the Administration proposals included in S.1718, the "Generalized System of Preferences Act," and recommends additional changes in the present GSP system to improve its effectiveness. Some changes would be desirable in the present system of "competitive need limits," whereby imports that are highly competitive in the U.S. market lose the benefit of GSP and leave room for GSP imports from relatively newer and smaller suppliers. Under this system, the President must suspend GSP eligibility on imports of a product from a beneficiary country if, during one calendar year, either the beneficiary supplies more than 50 percent of total U.S. imports of that product, or U.S. imports of that product from the beneficiary exceed a certain dollar figure (e.g., $53.3 million in 1982). We recommend:

1) Use of U.S.-made components in GSP products should be encouraged. Present law requires that at least 35 percent of an eligible article's value originate in the beneficiary country. To strengthen the two-way trade relationship between the U.S. and the beneficiary countries, the value of U.S.-supplied components should be counted towards the qualifying percentage level. When U.S. content is counted as qualifying under these percentage requirements, competitive need limitations should be waived. Furthermore, the U.S. should consider other measures which might make the inclusion of U.S. components in GSP products more desirable to GSP beneficiaries.

2) The base period for competitive need determinations should be lengthened from one to three years to avoid volatile effects of short-term trends and to ensure a reasonable period of adjustment. The effective cut-off date for GSP treatment for products in excess of competitive need thresholds should be made two years from the date of that determination. Exceptions could be made in cases where the President designates industries and products as import sensitive.

3) Competitive need should be reviewed every ten years, rather than every year, as at present, with respect to imports of products containing U.S.-made components and shipped from U.S.-owned plants in GSP countries. This would provide incentives for U.S. investments in developing countries, eliminating the uncertainties inherent in the present one-year system; such investments generally involve long payback periods.

4) Protection of intellectual property rights by beneficiary countries should be specifically identified as one of the factors to be taken into account by the President in determining eligibility.

5) Meaningful operations on the GSP product should be required to be performed in the beneficiary country.

6) The new U.S. harmonized customs system should be used for GSP product descriptions.

In conclusion, the NFTC favors the extension of GSP authority in a manner which will strengthen a vital part of the international economic system while encouraging the developing countries to integrate themselves more fully into that system.

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February 16, 1984

Mr. Roderick A. DeArment
Chief Counsel
Committee on Finance, Rm. SD-219
Dirksen Senate Office Building
Washington, DC 20510

Dear Mr. DeArment,

On behalf of this Association, we respectfully submit our views with respect to:

> Finance Subcommittee on International Trade Hearing on S.1718, the Administration's Proposal to Renew the Generalized System of Preferences - January 27, 1984.

On April 30, 1983 we submitted our comments to the Office of the United States Trade Representative with respect to extending the generalized system of preferences. A copy of that statement with our recommendations is attached.

With imports of pipe fittings from GSP beneficiary countries becoming a more urgent problem, on June 1, 1983 we petitioned for removal of all pipe fittings from the list of products eligible for duty-free treatment. The USTR accepted that petition for review on July 21, 1983. A hearing was held before the USTR on September 28, 1983 at which industry witnesses appeared. Representatives of some of the major foreign producers (Taiwan, South Korea, Brazil) vigorously opposed the petition which gives some indication of the competitive advantage they receive from GSP treatment.

The enclosed brief fact sheet demonstrates that the American pipe fittings industry is clearly import sensitive and there is ample evidence to indicate that most major domestic metalworking industries share the same fate.

We respectfully suggest that the renewal of the U.S. Generalized System of Preferences (GSP) be on a case-by-case basis with the developing Nations being required to substantiate their cause rather than placing the financial burdan on small, fragmented U.S. industries to defend their position on import sensitivity.

Sincerely,

Paul H. Engle Jr.

Paul H. Engle, Jr.
Executive Director

PHE/mkp
enclosure
cc: Peter Buck Feller
Arne Salvesen

## Extended Outline

- - -

Before the Office of the United States Trade Representative
and the Trade Policy Staff Committee

STATEMENT
OF
THE AMERICAN PIPE FITTINGS ASSOCIATION, INC.
ON EXTENDING THE GENERALIZED SYSTEM OF PREFERENCES

April 30, 1983

### I. DESCRIPTION OF AMERICAN PIPE FITTINGS ASSOCIATION

The American Pipe Fittings Association (APFA), is a trade association of United States manufacturers of iron and steel pipe fittings, pipe couplings, flanges and pipe hangers and supports. There are over 40 member companies of the APFA which account for a major proportion of the production of these products in the United States.

### II. STATEMENT OF POSITION

In light of the extensive import displacement of the U.S. industrial base in recent years,* the APFA questions the wisdom of a policy seeking extension of the Generalized System of Preferences (GSP) under Title V of the Trade Act of 1974 which expires at the end of 1984. Our qualms about the Generalized System of Preferences are reinforced by what we perceive as an administrative record that is generally unsympathetic to American industry, and often characterized by result-oriented interpretations in favor of foreign countries.

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* See: "The Ailing Defense Industrial Base: Unready for Crisis", House Armed Services Committee Print No. 29, 96th Cong., 2d Sess. (1980) and Bluestone and Harrison, The Deindustrialization of America (New York, 1982).

The APFA believes that, if renewal of the Generalized System of Preferences is nevertheless sought, certain modifications should be included in the proposed legislation.

## III. PRODUCTS ELIGIBLE FOR GSP TREATMENT

The member companies of the APFA manufacture products in the United States that compete with imported products which, if imported from beneficiary developing countries, are eligible for duty-free treatment under the GSP regime. These products consist primarily of pipe and tube fittings of iron or steel which are classifiable under TSUS Items 610.62 through 610.80. The column 1 duty rates for these products generally range between 2.8% to 10.2% *ad valorem*. Flange forgings, classifiable under TSUS Items 606.71 and 606.73, are also eligible for GSP treatment.

## IV. IMPORT SENSITIVITY

Under Title V of the Trade Act of 1974, the President is required to consider the probable economic effects of GSP treatment on domestic producers of like or directly competitive articles in designating or removing products from the GSP list. In his report to Congress on the operation of the GSP the President stated:*

> "The U.S. program is designed to ensure that imports of GSP duty-free products do not affect adversely U.S. producers of competitive items. * * * In determining whether to modify the GSP list, special consideration is given to the extent to which these items are import-sensitive in the context of the GSP."

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* *Report To The Congress On The First Five Years' Operation Of The U.S. Generalized System of Preferences (GSP)*, House Ways and Means Committee Print 96-58 (April 21, 1980) at pp. 64-65.

In our view the USTR has grossly misinterpreted the "import-sensitive" standard to retain GSP treatment for imported products even where the domestic industry in question is experiencing severe import pressures. It is very clear that Congress did not intend GSP treatment to contribute to the import dislocation of U.S. industries. Yet, the USTR has applied the standard on the basis of the volume of GSP imports and the applicable duty rate, rather than on the cumulative effect of all imports on the U.S. industry producing the import-sensitive product. This is wrong and must be changed, unless, of course, the GSP provisions are permitted to expire at the end of 1984.

## V. RECOMMENDATIONS

The APFA believes that any GSP extension legislation must include adequate safeguards for U.S. industries which are adversely impacted by imports. In particular, we believe that any extension legislation should contain specific rules with respect to removal of products from the GSP list on the basis of "import sensitivity". Where a domestic industry is adversely impacted by imports, GSP treatment should be removed regardless of the extent to which duty-free treatment has contributed to the injury. Therefore, the APFA recommends the following modifications:

(1) GSP treatment for a product should be automatically terminated on the basis of import sensitivity where the domestic industry producing the like or directly competitive product petitions for removal of GSP status and the import penetration rate

for that product from all sources exceeds 15% on either a quantity or value basis.

(2) The question of import sensitivity should be determined on the basis of the cumulative effect of imports from all sources on the domestic industry producing the product concerned.

(3) GSP treatment should be terminated for products which are subject to import relief under the Trade Act of 1974 or a quota imposed under any provision of U.S. law.

(4) GSP treatment should be terminated for any product and country subject to a countervailing duty under the Tariff Act of 1930.

(5) Pipe and tube fittings, classifiable under TSUS Items 610.62 through 610.80, and flange forgings, classifiable under TSUS Items 606.71 and 606.73, should be specifically excluded from GSP treatment since they are basic steel fabricated products that are import sensitive. The import penetration rate for finished steel flanges, for example, is now approximately 50%.

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This statement is presented pursuant to a hearing notice, published in the Federal Register of February 9, 1983 (48 Fed. Reg. 6062) inviting interested parties to submit their views on the GSP provisions in Title V of the Trade Act of 1974.

## FACT SHEET

Effective January 1, 1976, the President extended duty-free treatment to pipe fittings under the Generalized System of Preferences (GSP). Imports of pipe fittings from Taiwan, South Korea, Brazil and India and other beneficiary countries have increased substantially as a result.

On June 1, 1983, the domestic industry filed a petition with the United States Trade Representative (USTR) asking for removal of pipe fittings from the GSP list, citing section 503(c)(1)(G) of the Trade Act of 1974 which provides for the exclusion of import-sensitive products from GSP eligibility. Under the USTR procedure for such petitions a public hearing was held on September 28, 1983. A decision will be announced in March 1984.

### Increased GSP Imports

The upsurge in GSP imports can be seen from the following table:

U.S. Imports of Pipe Fittings
(thousands of pounds)

| | 1976 | 1982 | Change |
|---|---|---|---|
| Carbon Steel Flanges: | | | |
| GSP Imports | 616 | 26,874 | +4263% |
| Total Imports | 44,025 | 74,637 | +70% |
| Stainless Steel Flanges: | | | |
| GSP Imports | 21 | 754 | +3490% |
| Total Imports | 1,500 | 3,960 | +97% |
| Malleable Iron Fittings: | | | |
| GSP Imports | 3,021 | 17,054 | +465% |
| Total Imports | 21,531 | 34,038 | +62% |
| Butt-Weld Fittings: (Carbon Steel) | | | |
| GSP Imports | 274 | 6,010 | +2093% |
| Total Imports | 33,968 | 57,059 | +68% |
| All Pipe Fittings: (of Iron or Steel) | | | |
| GSP Imports | 6,391 | 69,050 | +980% |
| Total Imports | 136,707 | 277,175 | +103% |

As shown above, the GSP share of total imports has risen from 4.7% to 25%.

## Impact On U.S. Industry

The import-sensitivity of the American pipe fittings industry is evidenced by the substantial import penetration that has occurred in recent years. The ratio of imports to the domestic industry's shipments for key types of pipe fittings can be seen in the following table:

Ratio of Total Imports to Domestic Shipments
Based on Quantity
(1982)

| | |
|---|---|
| Carbon Steel Flanges: | 511% |
| Stainless Steel Flanges: | 65% |
| Malleable Iron Fittings: | 38% |
| Carbon Steel Butt-Weld Fittings: | 83% |

In 1980 there were approximately 20,000 jobs in the domestic industry. Now there are less than 15,000. In short, there has been a job loss of more than 25% in the industry to which GSP imports have contributed.

Since 1980 alone at least 16 U.S. production facilities have closed. A list of those facilities and their locations is attached.

Attachment

## U.S. Pipe Fittings Industry

## Plant and Major Production Line Shutdowns (1980-1983)

| Year | Company | Location | Product(s) |
|---|---|---|---|
| 1980 | Bonney Forge | Allentown, PA | Flanges |
| 1980 | Babcock & Wilcox | Beaver Falls, PA | Butt-Weld Fittings |
| 1980 | Pipe Tech | Oakland, CA | Forged Fittings |
| 1981 | NE Malleable Iron | Providence, RI | Iron Fittings |
| 1982 | Sunweld | Los Angeles, CA | Butt-Weld Fittings |
| 1982 | Nepco | Long Island, City,NY | Flanges |
| 1982 | Taylor Forge | Memphis, TN | Butt-Weld Fittings |
| 1982 | ITT Grinnell | Princeton, KY | Flanges |
| 1982 | Anvil Products | Allison Park, PA | Pipe Couplings |
| 1982 | Picoma Industries | Martins Ferry, OH | Pipe Couplings |
| 1983 | Pennsylvania Forge | Philadelphia, PA | Flanges |
| 1983 | Wheeling Machine | Wheeling, W.VA | Pipe Couplings |
| 1983 | Speedline | Philadelphia, PA | Butt-Weld Fittings |
| 1983 | Dart Union | Providence, RI | Unions |
| 1983 | Taylor Forge | Long Island City,NY | Butt-Weld Fittings/ Flanges |

# STATEMENT TO THE SENATE COMMITTEE ON FINANCE

FEBRUARY 17, 1984

## PROPOSAL TO RENEW THE GENERALIZED SYSTEM OF PREFERENCES

SUBMITTED BY HENRY J. VOSS

PRESIDENT

CALIFORNIA FARM BUREAU FEDERATION

The California Farm Bureau Federation is the state's largest general farm organization, representing over 100,000 member families. We oppose the renewal of the Generalized System of Preferences. Our position is based on American Farm Bureau Federation policy as adopted at its January 1984 annual meeting.

The Generalized System of Preferences (GSP) was opposed by Farm Bureau at the time the Trade Act of 1974 was enacted, even though we strongly supported the other provisions of the Act. We oppose renewal of the program as we believe tariff concessions should be granted only in the negotiating process. When negotiated tariffs are freely given away, it is more difficult to seek concessions from beneficiary countries, which overall is detrimental to the expansion of free trade.

GSP was created as a temporary program to help developing countries achieve greater levels of international competitiveness. Progress toward this goal should be documented prior to any consideration of program renewal. A comparison between our GSP program and those in other developed countries should also be made. Results of studies on both of these questions should be made public and provided to Congress. Additionally, information is needed on what efforts, if any, beneficiary countries have made to grant the U.S. "equitable and reasonable access," as this was another goal of GSP.

On a procedural basis, a major problem has been the ability of a country to continually request duty-free treatment for a category year after year. When this happens, growers, who have considerable time and money invested in their crops, find their industry exposed each year to the threat of a non-negotiated tariff elimination. If the U.S. Trade Representative has denied GSP treatment in the past, there is no reason why it should be reviewed again. Clearly, this is a waste of both valuable time and resources. There should be a specified time period required before resubmission of a previously denied product category and also for reconsideration of GSP status for countries who have been graduated in a certain product area.

Identification of the product requested for duty-free status and determination of the impact is extremely difficult with the form of announcement provided. The specific product should be cited, rather than the overall tariff category, so that the domestic industry can respond accordingly. This difficulty is compounded by the ability of a country to resubmit a product under a different category or request that the tariff category be split. Also, only those countries interested in exporting to the U.S. should be named on the petition, rather than an entire group.

Although we offer these specific suggestions, we continue to oppose the renewal of the Generalized System of Preferences. It is a deterrent to trade negotiations and counter to Most Favored Nation principles. Realizing that this may not be possible in today's political and international climate, we urge that agricultural products be excluded from the program. GSP was not intended to include agricultural products, but the agricultural commodities on the attached list are annually "at risk."

The TEMPORARY nature of this program and its real intent to promote the development of manufactured and semi-manufactured industries in beneficiary countries should be kept in mind during the renewal process.

Table A. VALUE OF PRINCIPLE CALIFORNIA COMMODITIES AFFECTED BY ARTICLES CURRENTLY ELIGIBLE OR GSP STATUS (Source: "California Agriculture - 1982" Calif. Department of Food & Agriculture)

| | | |
|---|---|---|
| Apples | 43,645 | 5.7 |
| Apricots | 34,715 | 97.4 |
| Beans, Dry | 87,213 | 12.8 |
| Broccoli | 177,084 | 89.9 |
| Carrots | 115,636 | 49.0 |
| Cauliflower | 96,835 | 71.3 |
| Celery | 128,670 | 71.4 |
| Cherries | 15,355 | 7.2 |
| Corn | 137,280 | .5 |
| Figs | 9,597 | 99.9 |
| Flowers/Foliage | 412,274 | 25.7 |
| Grapefruit | 23,406 | 9.3 |
| Lemons | 99,245 | 74.6 |
| Lettuce | 469,255 | 72.3 |
| Melons | | |
| Canteloupe | 105,440 | 8.0 |
| Honeydew | 27,178 | 65.8 |
| Persian | 852 | 8.0 |
| Mushrooms | 88,907 | 16.9 |
| Nursery Products | 531,638 | 24.6 |
| Oats | 5,704 | .4 |
| Olives | 69,862 | 99.9 |
| Onions | 95,103 | 31.1 |
| Oranges | 359,048 | 24.2 |
| Peaches | 130,681 | 66.2 |
| Pears | 46,730 | 39.8 |
| Pistachios | 65,395 | 100.0 |
| Potatoes | 186,546 | 6.0 |
| Raspberries | 1,542 | 8.0 |
| Sorghum Grain | 26,627 | 1.2 |
| Strawberries | 294,419 | 71.4 |
| Sugar Beets | 134,400 | 19.8 |
| Sweet Potatoes | 19,752 | 12.0 |
| Tangerines | 13,724 | 34.7 |
| Tomatoes | 569,195 | 75.4 |
| Walnuts | 262,080 | 99.0 |
| Wheat | 309,013 | 2.9 |
| Winegrapes | 428,843 | 92.6 |
| LIVESTOCK | | |
| Cattle | 1,481,400 | 5.1 |
| Eggs | 362,852 | 11.9 |
| Hogs | 28,169 | .3 |
| Sheep | 52,849 | 10.3 |
| Turkeys | 157,560 | 12.7 |
| Wool | 7,370 | 9.9 |
| TOTAL | 7,713,119 | |

STATEMENT OF THE
AMERICAN-ISRAEL CHAMBER OF COMMERCE AND INDUSTRY, INC.
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(212) 354-6510

BEFORE

THE UNITED STATES SENATE FINANCE COMMITTEE
SUBCOMMITTEE ON INTERNATIONAL TRADE
HEARING ON
LEGISLATION TO RENEW
THE GENERALIZED SYSTEM OF PREFERENCES (GSP) (S.1718)

JANUARY 27, 1984

## Introduction

This statement is being submitted on behalf of the American-Israel Chamber of Commerce and Industry, Inc. in support of the legislation (S.1718) to renew the Generalized System of Preferences (GSP). The Chamber supports renewal of the GSP for Israel without restriction or exemption.

The Chamber is a United States non-political and non-sectarian trade association comprising hundreds of United States corporations. Our membership consists of some of the most important exporters of United States products to Israel, importers of Israeli products into the United States, and American investors in Israel. The organization is the recipient of the "E" Award of the President of the United States "For an Outstanding

Contribution to the Export Expansion Program of the United States of America".

As a trade association concerned with trade between Israel and the United States, we have polled a number of our member firms as well as other firms doing business with Israel on the matter of extending or renewing the GSP on Israeli products. We found the American business community doing business with Israel supports the extension and renewal of the GSP on Israeli products without exemptions or restrictions. Many of the comments of those seeking to eliminate duties on Israeli products entering the United States may be found in our testimony before this Committee on February 6, 1984 relating to the United States-Israel Free Trade Area.

## I. THE GENERALIZED SYSTEM OF PREFERENCES SHOULD BE RENEWED BY CONGRESS WITHOUT LIMITATION REGARDING ISRAEL

We believe that Congress should give the legislation renewing GSP prompt and affirmative action for the following reasons:

### 1. The GSP offsets disadvantages which Israel experiences as a result of its exclusion from certain world markets

Israeli exports are disadvantaged in some of the world's markets because of factors not related to the quality and efficiency of its products. In the event that the GSP will be extended, these disadvantages will continue to be offset, at least in part. Israel currently has one of the highest per capita debts of any country. This is primarily the result of its expenditures on defense. To service and retire its debt, Israel must export a great part of its production. Because of the political situation in the Middle East, Israel's trade with its neighbors is negligible. Together with its extraordinary military burden, Israel has to transport its exports thousands of miles.

Much of the exports from the world's developing countries rely on low cost labor. Israel is an exception to this rule. The quality of the Israeli worker, coupled with the fact that Israel is a deeply rooted democracy with a highly organized labor movement, results in Israeli products being known for their technological advancement, sophistication, and style, rather than low price. Consequently, Israeli products are often uncompetitive in countries imposing high or restrictive tariffs.

The GSP beneficiary status of certain Israeli products have helped to offset these deficiencies. Moreover, there are two further aspects of current Israeli trade policy which may ultimately aid Israeli exports. The first is the enactment of the European-Israeli Free Trade Area in which Israeli exports to the European Economic Community are currently entered free of duty. The second is the current negotiations to implement a similar agreement between the United States and Israel. It is, however, the continuation of the GSP, and its expansion for

Israeli products, that is of immediate concern to our members importing from Israel. We see a Free Trade Area with Israel as a next stage and natural outgrowth of a renewed GSP.

At present, approximately 90% of Israeli exports to the United States are entered free of duty. Over one-third of those exports are entered under the Generalized System of Preferences. The GSP, while beneficial to American-Israel trade, contains certain drawbacks to Israel, which should be eliminated in the new legislation pending in Congress, and which would, in any event, be eliminated by the establishment of a Free Trade Area with Israel.

## 2. The Generalized System of Preferences should be renewed with changes improving long-term planning in international trade without diminution of benefits to Israel

The first change which we recommend should be incorporated in the bill is a provision which would improve long-term planning in regard to the status of Israel's (and other beneficiary countries') future exports to the United States.

Under the present GSP system, a country, product, or "country-product pair" may be "graduated", that is, eliminated from GSP benefits if certain limits are reached. In 1983, for example, if a country accounted for more than $57.9 million of the imports of an article to the United States or over 50% of the value of total imports of that article, then its GSP benefits for that product would be eliminated.

The 50% maximum figure should be eliminated entirely as a determinant of GSP beneficiary status. Once eligibility is established, any country should be allowed to account for more than 50% of imports of one product into the United States. The 50% limit unnecessarily creates tensions among developing countries while rendering no improvement in cost, efficiency, quality, or protection to United States industry or labor. The elimination of the 50% limit would enable the world market to make rational decisions on production, capacity and the like.

Second, in the case of Israel, no consideration should be given to its per capita GNP for eligibility for GSP beneficiary status. As we noted above, Israel has one of the world's highest per capita debts, a result of its defense burden. Moreover, per capita GNP does not truly reflect Israel's non-defense per capita national income.

## II. PASSAGE OF THE GENERALIZED SYSTEM OF PREFERENCES RENEWAL LEGISLATION, AS MODIFIED, WOULD BENEFIT THE UNITED STATES.

The renewal of the Generalized System of Preferences, especially in the case of Israel, would result in the following benefits to the United States.

First, the Generalized System of Preferences is a tested system. The Generalized System of Preferences has been in effect in the United States for approximately ten years. Similar systems have been in effect in other developed countries for even a longer period. The Generalized System of Preferences provides a reliable, efficient and non-injurious framework for international trade, while at the same time assisting development in the developing world.

Second, elimination of the Generalized System of Preferences will not aid United States industry. As the International Trade Commission found (U.S.I.T.C. Pub. 1384), "graduation" of a "country-product" pair from GSP does not aid the the United States industry manufacturing that product. Rather, in almost all cases, the benefits are transferred to industries in one of the developed countries in Europe, or Japan. The Chairman of the International Trade Commission repeated this finding in his testimony on January 27, 1984 before this Committee.

Third, the maintenance of GSP status for Israeli products will generate additional funds for Israel from its increased exports to the United States. Traditionally, the Israeli economy prefers United States-made equipment and products. Therefore, in all probability, the funds generated from increased Israeli exports under GSP will be utilized for purchases from, and payments to, the United States.

## III. THE UNITED STATES AND ISRAEL HAVE COMMON COMMERCIAL INTERESTS WHICH WOULD BENEFIT FROM THE EXTENSION OF THE GSP FOR ISRAELI PRODUCTS

The United States and Israel have common economic and commercial interests which would benefit from the renewal of the Generalized System of Preferences statute with reference to Israel.

First, both the United States and Israel are heavy investors in research and development and exporters of know-how. That means that the GSP status for Israeli products will not result in the drain of the United States' intellectual property to Israel's advantage. A more likely scenario is that both countries will cooperate in the joint development of new technologies whenever mutually desirable.

Moreover, the United States and Israel have a commonality of interests in protecting intellectual property. Both countries are alert to the fact that their exports of technological products to third country markets contain billions of dollars worth of intellectual property. Both countries are therefore extremely aware that these rights must be protected against theft, counterfeiting and infringement. The enforcement of intellectual property rights is vigorous in both countries because the protection of these rights ensures the future growth industries in both countries.

The second mutual benefit to both countries derives from the fact that both countries have active and independent labor movements linked to, and nurtured by, democratic institutions. American workers are justifiably wary of efforts to liberalize trade when it is at the expense of American jobs and American wages earned through a vibrant and democratic labor movement. In the case of Israel, its labor movement is among the most active in the world. The wages, benefits and social protection it has achieved can be claimed by very few nations in the world. Therefore, the continuation of GSP status for Israeli products will benefit the workers in both countries.

## Conclusion

The advantages of GSP status for Israeli products are numerous. In addition to deepening an important commercial relationship, the continuation of the Generalized System of Preferences for Israeli products would tend to lower prices and create jobs and new opportunities in both the United States and Israel.

Accordingly, we request that Congress act favorably on this proposal as amended with the modifications we have proposed.

AMERICAN-ISRAEL CHAMBER OF COMMERCE
AND INDUSTRY, INC.

By: Dr. Philip Opher
Executive Vice President

OF COUNSEL:

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## Submitted on Behalf of the Korean Traders Association (KTA)

By
Mr. Duck-Woo Nam
Chairman of KTA

The Korean Traders Association (KTA), a non-profit organization representing more than 4,000 trading companies in Korea, is very concerned with the renewal of the United States Generalized System of Preferences. The KTA recognizes that GSP has made a significant contribution to the industrialization of developing nations through expanding trade between developed and developing nations. The KTA believes that the GSP system is the most effective mechanism for promoting the economic progress of the developing countries by means of trade rather than aid, while the United States incurs a very low cost.

In view of the underlying spirit of GSP and the current economic status of Korea, the KTA believes that the United States should extend GSP benefits on a non-discriminatory basis to all developing countries, including Korea.

The KTA strongly urges the United States not to reduce or eliminate GSP benefits for the so-called "advanced" developing countries such as Korea. Experience has shown that such action, in all likelihood, actually would redound to the advantage of the advanced industrial nations instead of benefiting low-income developing nations. Given this consideration, the existing "competitive need" criteria should not be more restrictive for some developing countries than for others. Discretionary graduation should not be applied so as to arbitrarily discriminate between product categories and/or countries. In this regard, the

KTA is greatly concerned that U.S.-Korean trade volume would fall as a result of a reduction in competitive need limits and arbitrary graduation.

The U.S. Government has stated that it will consider the degree of market access in Korea with respect to GSP. In this context, it should be emphasized that Korea is still a developing country by almost any standard of economic development. Given this circumstance, it is hardly reasonable to expect Korea, or any other Newly Industrializing Country, to fully and immediately liberalize its import regime. To insist on full "reciprocity" from a developing country like Korea contradicts the very purpose of the GSP program which is the developed countries' commitment to grant the developing countries' exports more favorable access to their market. Across-the-board reciprocity would seriously damage many sectors of the developing countries, thus negating the advantages intended to result from GSP.

Nevertheless, Korea has made significant progress in liberalizing imports, including many of the 32 items (259 specific products in the CCCN 8-digit classification) in which the United States has expressed special interest. Of these specific products, 91 have already been liberalized, and 31 were placed on the automatic approval list on January 1, 1984, several months ahead of the original schedule. The remaining items will be incorporated in the 1985-1988 period. Moreover, the average tariff rate is now 20.6 percent, down from 22.6 percent in 1983 and is expected to further decline to 16.9 percent by 1988.

However, the elimination or reduction of GSP benefits would undermine Korea's efforts to promote the liberalization program which Korea has thus far been pursuing with determination.

In implementing GSP, the United States should take into account the beneficiary's balance-of-payments situation, per capita GNP, foreign debt, defence expenditures and the particular sectors of its economy most likely to benefit from GSP. Korea's major export items to the United States, including textiles, steel products, footwear and electronics, have not been accorded GSP benefits, as a result of statutory product exclusions. Hence, the GSP system has mainly benefited small-size Korean industries which are not competitive in international markets. Such small-size firms comprise 97 percent of all mining and manufacturing companies in Korea.

In summary, curtailment of GSP benefits would have an adverse impact on Korea's foreign exchange earnings, and on its long-term ability to finance increasing imports and service foreign debt, thereby diminishing prospects for expanding bilateral trade with the United States.

## Statement on Behalf of the Korean Traders Association (KTA)

This statement is submitted on behalf of the Korean Traders Association (KTA), a non-profit organization representing more than 4,000 trading companies in Korea. KTA wishes to express its appreciation for the opportunity to present views on the Administration's proposal to extend the GSP program. KTA would like to submit for the record a detailed analysis of Korea's experience with the GSP program. This study discusses more fully many of the issues raised here.

As a general matter, the United States government must recognize that failure to extend the GSP would be viewed by developing countries as a very serious blow to their efforts to achieve sustained economic growth. KTA believes that the United States must reaffirm its commitment to a trade preference system on a nonreciprocal, nondiscriminatory basis. Any reversal of position in this regard could only be interpreted as a decision by the United States to pursue a more protectionist trade policy.

With regard to Korea itself, there are a number of issues of concern to KTA regarding the Administration's GSP extension legislation. The reduction or elimination of the GSP benefits for Korea will diminish bilateral trade flows with the United States, undermine Korea's efforts toward trade liberalization, complicate efforts to balance external accounts and strain the country's ability to carry forward critical defense obligations.

The existing GSP program has been relatively successful in providing increased trade opportunities between the United States and Korea, while protecting the legitimate interests of U.S. industries. Korea's exports of GSP products have nearly tripled since inception of the program, rising from $591 million in 1976, to $1,720 million in 1982. More than one-third of the 1982 trade was denied GSP duty-free treatment, however, due to competitive need or discretionary graduation.

Progress toward export diversification is apparent from the steady expansion of the number of eligible product categories used by Korea. Diversifing exports is of great importance to Korea. It's largest export sectors, e.g., textiles, apparel, footwear, electronics and steel, which already lie outside the scope of the program as a result of statutory product exclusions, face increasing protectionist pressures in the United States and among developed countries generally. The GSP provides Korea with a basis for diversifying trade into product sectors that are considered less import sensitive in the United States.

Moreover, increased exports through the GSP have translated directly to increased opportunities for Korea to expand purchases of goods and services from the United States. The old axiom that you must export to pay for imports is certainly true in the case of Korea. It is noteworthy that the dollar value of U.S. exports to Korea rose more rapidly than

U.S. imports from Korea between 1976 and 1982. Moreover, the rate of increase in U.S. exports to Korea was more than double than for total U.S. exports to all overseas markets during this period.

A review of the data in Table 1 reveals that the U.S. and Korea have maintained a rough equivalence in their merchandise trade in the years since the GSP was implemented. Korean exports to the U.S. of $5.6 billion in 1982 were nearly matched by U.S. exports to Korea of $5.5 billion. Through the first 10 months of 1983, U.S. imports of $5.9 billion were greater than U.S. exports to Korea of $4.9 billion, reflecting the relatively stronger performance of the U.S. economy.

U.S. exporters have enjoyed a steady expansion in trade with Korea in product areas that are of the greatest long-term importance to this country. Table 2 summarizes the growth in U.S. exports to Korea by major product sector between 1976 and 1982. It is apparent that the largest gains have been in the machinery and transportation sector, where 1982 shipments amounted to over $1.8 billion. This represents an increase of 235 percent in dollar terms since 1976. These products are the mainstay in the U.S. effort to expand the production and export of high technology goods, an area where the U.S. enjoys a favorable competitive position in relation to the rest of the world.

Korea also represents a significant outlet for U.S. agriculture. Exports of farm and forest products doubled between 1976 and 1982, amounting to $1.8 billion in the latter year. Exports of fruits and vegetables have grown steadily, from less than $1 million to more than $12 million in 1982.

More generally, the expansion and diversification of exports is vital to Korea's ability to balance its external accounts. While total exports has increased at a very fast rate over the past decade, imports have increased even faster. Korea's merchandise trade balance is in chronic deficit (Table 3), as is its current trade accounts (Table 4), necessitating a constant increase in exports and financing through inflows of foreign capital. A major share of the annual current account deficit is with the United States (Table 5). Foreign exchanged earned through export expansion constitutes not only the primary source of investment needed for continuing development, but also provides the means for purchasing imports.

The inflow of foreign capital has substantially helped to narrow the gap between domestic saving and domestic investment. These financial inflows are being used to finance basic investment in the economy, not the consumption of consumer goods. Korea's foreign exchange borrowings have been utilized efficiently, rather than in support of a consumer buying binge.

At the end of 1983, total foreign debt reached about 40 billion, making Korea the fourth largest debtor country in the world. Projections through the end of the revised Korean economic development plan (i.e., 1981-1986), indicate that foreign debt will rise to $47.4 billion by 1986. Presently, the country's debt service ratio for long-term capital is roughly 15.2 percent and its total debt service ratio is approximately 21 percent (long-term plus short-term capital). In terms of the ratio of foreign debt to GNP, Korea's debt burden is the largest in the world, amounting to 56.4 percent. Compared with other developing countries, however, Korea believes that its debt position remains within manageable levels, but only if it can continue to expand exports.

Finally, in this regard, KTA believes that the U.S. government must consider carefully the relationship between Korea's need for continuing export expansion to support economic growth and its ability to meet mutual defense needs. As a staunch support of the United States in the region, Korea has the strongest military force in Asia. Korea is bound through bilateral treaties with the United States to spend at least 6 percent of its GNP on national defense. This is an enormous burden, surpassing even that of the United States and well ahead of Japan which spends roughly 1 percent of its GNP for defense purposes. Actual expenditures will continue to rise with the growth in Korean GNP. While a strong national defense is an obvious necessity, increased exports through GSP benefits will certainly make a significant contribution to strengthening Korean's defense posture.

KTA believes that the Administration's proposal to place further limitations on Korea's GSP eligibility threatens to relegate Korea to a form of economic limbo, a state where it is considered neither developed nor developing for purposes of U.S. trade policy. On the one hand, Korea will be denied the full benefits of the GSP accorded to developing countries generally. On the other hand, it is quite apparent that Korea, in being denied its true developmental status, will not be accorded the same treatment as other developed countries in its trade relations with the United States. This is all too apparent, for example, from the U.S. government's continued maintenance and tightening of import quotas against Korean textiles and apparel. There is little prospect that these restraints will be eliminated or even liberalized in the foreseeable future. Indeed, there is intensifying pressure in the United States to make them even more restrictive. Moreover, Korean industry has been harrassed by a multiplicity of so-called "unfair trade" actions which have resulted in negative or minimal margins or penalty duties, but have constituted a serious barrier to trade.

In this regard, there appears to be a mistaken impression among many U.S. officials that Korea is no longer a developing country, or at least one that no longer needs the benefits of the U.S. GSP program. It is true that Korea has emerged as a semi-industrialized country during the past decade. However, it is fair to say that Korea is still a developing country by any accepted standard. Korea's per capita GNP in 1981 amounted to only $1,700 (according to the World Bank), well below that of established industrial economies such as the United States (1981 per captia GNP, $12,820) and Japan ($10,080) or that of other eligible beneficiaries such as Singapore ($5,240) and Israel ($5,160).

It is Korea's export growth over the past decade, that has dominated the view from the United States. Korea's high level of manufactured exports to the United States and elsewhere is mistakenly associated with an equally high level of development. Some associate it with a degree of international competitiveness that negates the need for further GSP eligibility.

The actual situation is far different. First, it is simply erroneous to view Korea as primarily an export oriented economy. Korea's imports annually exceed exports. U.S. exports to Korea have grown steadily alongside rising Korean shipments to the United States. This coming March, Korea will dispatch its largest trade mission ever to the United States, representing a major effort on the part of the Korean government and the buiness community to expand and diversify trade with the U.S. As is apparent from the data in Table 2, the largest growth in

Korean purchases from the U.S. has been in the machinery and transportation sector, an area where the U.S. is most interested in expanding trade.

Second, Korea's success in some export product sectors masks continuing competitive problems in many others. Despite its reputation as a strong international competitor, Korea has suffered through a major loss of international competitiveness in recent years. Korea's export industries are being pressured by rising costs, increased competition from lower cost developing countries and a proliferation of trade restraints in industrialized countries. The lack of international competitiveness associated with many GSP products exported by Korea is apparent from the rapid decline in trade from Korea in product categories where duty-free treatment has been lost through competitive need or discretionary graduation. This is well documented in KTA's economic study being submitted for the record.

It is substantiated as well by the USITC's recently published studies on the operation of the U.S. GSP program. (See USITC publication No. 1384, Changes in Import Trends Resulting From Excluding Selected Imports From Certain Countries From The Generalized System of Preferences, May 1983; and USITC publication No. 1379, An Evaluation of U.S. Imports Under The Generalized System of Preferences, May 1983.)

Analysis of the record developed thus far under the program indicates that Korea's GSP trade has not created or contributed to the difficulties that many lesser-developed beneficiaries face in expanding their trade with the United States. Developed countries, ineligible for the GSP, have dominated total trade in categories covered by the program since its beginning and continue to do so today. Their share of total imports in categories covered by GSP exceeded 71 percent in 1982. Korea's trade accounted for less than three percent of the total. On the basis of trade actually receiving GSP duty-free treatment, Korea's trade accounted for just 1.8 percent of total imports in GSP categories from all suppliers in 1982.

KTA believes that the Administration and the Congress could help improve the overall success of the program by focusing greater attention on the transfer of more GSP trade from developed to developing countries, rather than concentrating exclusively on how to redistribute trade presently held by all beneficiaries. KTA is concerned that trade lost through the denial of GSP benefits to Korea (or any other advanced beneficiaries) will, in all probability, revert to developed countries rather than low-income developing countries.

KTA also believes that the Administration should place greater emphasis on reviewing trade patterns subsequent to loss of eligibility through either competitive need or discretionary graduation to spot obvious inequities and restore eligibility where it is clear that the excluded supplier is not competitive. The Administration's proposal retains the concept of "redesignation" for product categories where trade has fallen below competitive need levels subsequent to the loss of eligibility. However, the Administration now grants redesignation in the case of Korea and other advanced developing countries in only the most extreme circumstances. A continuation of this policy can only damage Korea's interests without adding to fuller participation in the program by the least developed countries. Indeed, the prime beneficiary is often Japan or another GSP ineligible developed country.

Penalizing Korea and the other major beneficiaries through further limitations on eligibility will not remedy problems facing lesser-developed countries. KTA has analyzed carefully the impact of product exclusions previously imposed on Korea and the other major beneficiaries to determine the amount of trade diverted to lesser-developed beneficiaries. The results are quite clear in establishing that the exclusion of Korea from eligibility through graduation or competitive need has produced few tangible benefits in this regard. It has served to excluded Korea in many products where subsequent trade patterns make it clear that Korea was not competitive internationally. There is no reason to believe that an intensified graduation policy will improve this situation.

Indeed, it will only hurt Korea and further diminish prospects for expanding bilateral trade with the United States. These conclusions are well documented in the KTA study.

Finally, the Administration's proposed linkage of market access to GSP eligibility threatens the underpinnings of the program and bilateral trade relations with Korea generally. The United States has been a party to any number of international agreements stating explicitly that beneficiaries should not be required to pay for GSP. This is simply confusing differing trade policy objectives. Reciprocity covers issues going well beyond GSP. Mixing the two will only produce unsatisfactory results for both.

Market access is an important concern to U.S. exporters and a legitimate issue in trade relations. The Korean government has stated that it stands ready to discuss the matter in the context of total bilateral trade between the two countries. Korea has unilaterally initiated a series of reforms aimed at liberalizing barriers to trade.

Beginning in 1978, Korea has expanded the number of individual import categories where licensing and other requirements to have been removed. Since 1978 Korea's import liberalization ratio has risen from 54 percent to over 80 percent. This process will continue in the years ahead. In the wake of President Reagan's visit to Korea last November. Korea has agreed to a U.S. government request to liberalize 31 additional products of special interest to U.S. exporters. This action has been taken despite opposition from Korean manufacturers. Moreover, the average tariff rate is now 20.6 percent, down from 22.6 percent in 1983 and is expected to further decline to 16.9 percent by 1988. However, the elimination or reduction of GSP benefits will undermine Korea's efforts to promote its liberalization program at home, a program that it has thus far been pursuing with determination.

To its credit, Korea has come to recognize that its future economic development can best be assured by steadily introducing external competition in the domestic marketplace. The objective over time is to bring Korea's import policies into line with those maintained by the industrialized countries. KTA is convinced that progress toward import liberalization is real and that the mutual benefits to be achieved are gradually coming to be realized by both sides.

Moreover, in considering the issue of reciprocity, the U.S. must remember that it maintains significant barriers to Korea's exports. From KTA's perspective, it appears that the United States is being somewhat disingenuous in its position on this matter. While pushing strongly for liberalized access to foreign markets, particularly in products with advanced technology and in the area of services, it is continuing to erect barriers against trade in lower technology, more labor intensive products of the type where Korea and other developing countries have the capability to expand exports. The United States cannot have it both ways. KTA cannot accept the notion that Korea should ignore U.S. barriers and negotiate solely on the basis of nondiscriminatory treatment in GSP eligibility in exchange for further Korean import liberalization.

TABLE 1

KOREA-UNITED STATES MERCHANDISE TRADE, 1976-1982
(Value In Millions of U.S. Dollars)

| | Korean Exports to the U.S. | Korean Imports From the U.S. | Trade Balance |
|---|---|---|---|
| 1976 | 2,440 | 2,015 | 425 |
| 1977 | 2,911 | 2,371 | 540 |
| 1978 | 3,818 | 3,160 | 658 |
| 1979 | 4,102 | 4,190 | (88) |
| 1980 | 4,257 | 4,685 | (428) |
| 1981 | 5,227 | 5,116 | 111 |
| 1982 | 5,637 | 5,529 | 108 |

SOURCE: U.S. Department of Commerce, FT-990.

TABLE 2

### U.S. EXPORTS TO KOREA: VALUE AND DISTRIBUTION BY PRODUCT SECTOR, 1976 and 1982

(Value in Millions of U.S. Dollars)

| Product Sector | 1976 | | 1982 | |
|---|---|---|---|---|
| | Value | Distribution | Value | Distribution |
| Food & Live Animals | 419 | 20.9 | 821 | 14.9 |
| Beverages & Tobacco | 14 | 0.7 | 7 | 0.1 |
| Crude Materials, Inedible, excl. Fuel | 580 | 28.9 | 1,214 | 22.0 |
| Mineral Fuels & Lubricants | 31 | 1.6 | 410 | 7.5 |
| Oils & Fats, Animal & Vegetable | 35 | 1.7 | 34 | 0.6 |
| Chemicals & Related Products | 116 | 5.8 | 473 | 8.6 |
| Manufactured Goods Classified By Chief Material | 53 | 2.6 | 311 | 5.6 |
| Machinery and Transport Equipment | 42 | 27.4 | 1,816 | 32.9 |
| Misc. Manufactured Articles and Special Shipments | 216 | 10.8 | 406 | 7.3 |

SOURCE: U.S. Department of Commerce, EM-455.

TABLE 3

## KOREA'S MERCHANDISE TRADE BALANCE

(In Million Dollars)

| | Exports | Imports | Trade Balance | Ratio of Exports to GNP | Ratio of Imports to GNP |
|---|---|---|---|---|---|
| 1976 | 7,814 | 8,405 | -5,995 | 34.5% | 36.9% |
| 1977 | 10,047 | 10,523 | - 477 | 37.2% | 37.8% |
| 1978 | 12,711 | 14,431 | -1,781 | 36.2% | 39.5% |
| 1979 | 14,705 | 19,100 | -4,390 | 32.5% | 40.2% |
| 1980 | 17,214 | 21,598 | -4,384 | 40.2% | 50.4% |
| 1981 | 20,702 | 24,299 | -3,597 | 43.4% | 51.6% |
| 1982 1/ | 20,961 | 23,361 | -2,400 | NA | NA |

1/ Preliminary.

Source: Bank of Korea.

TABLE 4

### KOREAN BALANCE OF PAYMENTS, 1979-1982
(At Current Prices, In Millions of U.S. Dollars)

| | 1979 | 1980 | 1981 | 1982 (P) |
|---|---|---|---|---|
| Current Account: (A) | 4,151 | 5,525 | -4,615.1 | -2,546.1 |
| Trade Balance | 4,395 | 4,662 | -3,597.4 | -2,400.0 |
| Exports | 14,705 | 17,241 | 20,701.7 | 20,960.9 |
| Imports | 19,100 | 21,903 | 24,299.1 | 23,360.9 |
| Invisible Trade Balance | 195 | 1,296 | -1,518.4 | -618.8 |
| Transfers | 439 | 433 | 500.7 | 172.7 |
| Long-term Capital (B) | 2,663 | 1,652 | 2,841.9 | 1,352.1 |
| Basic Payments Position (A + B) | 1,488 | 3,873 | -1,773.2 | -1,194.0 |

(P) - Preliminary

Source: Bank of Korea.

TABLE 5

### KOREA-UNITED STATES BALANCE OF PAYMENTS, 1979-1982

(At Current Prices, In Millions of U.S. Dollars)

| | 1979 | 1980 | 1981 | 1982 |
|---|---|---|---|---|
| I. Current Balance | -354.2 | -1,357.6 | -1,657.6 | -988.8 |
| 1. Exports (f.o.b.) | 4,136.2 | 4,429.2 | 5,456.7 | 6,077.5 |
| 2. Imports (f.o.b.) | 4,490.7 | 4,822.7 | 5,694.7 | 5,947.1 |
| Trade Balance | -354.5 | -393.5 | -238.0 | 130.4 |
| 3. Invisible Trade Receipts | 1,652.0 | 1,820.9 | 2,016.3 | 2,779.8 |
| 4. Invisible Trade Payments | 1,830.9 | 3,026.7 | 3,667.4 | 4,155.8 |
| (Interests) | (683.1) | (1,323.6) | (1,680.2 | (2,049.0) |
| Invisible Trade | -178.9 | -1,205.8 | -1,651.1 | -1,376.0 |
| 5. Transfer (Net) | 179.2 | 241.7 | 231.5 | 246.8 |
| II. Long-term Capital | 507.3 | 274.4 | 883.3 | - |
| 6. Loans & Intestment (Net) | 189.8 | 333.4 | 662.6 | - |
| (Amortization) | (242.5) | (240.3) | (229.8) | |
| 7. Others (Net) | 317.5 | -59.0 | 220.7 | - |
| III. Basic Balance (I + II) | 153.1 | -1,083.2 | -774.3 | - |

BEFORE THE
INTERNATIONAL TRADE SUBCOMMITTEE
FINANCE COMMITTEE
U.S. SENATE

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# HEARING ON RENEWAL OF THE GENERALIZED SYSTEM OF PREFERENCES

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## Statement on Behalf of the Bicycle Manufacturers Association of America, Inc.

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BEFORE THE
INTERNATIONAL TRADE SUBCOMMITTEE
FINANCE COMMITTEE
U.S. SENATE

## STATEMENT ON BEHALF OF THE BICYCLE MANUFACTURERS ASSOCIATION OF AMERICA, INC.

### I. INTRODUCTION

On behalf of the bicycle manufacturer members of the Bicycle Manufacturers Association of America, Inc. ("BMA"), we submit this statement on the renewal of the Generalized System of Preferences ("GSP"). BMA is a nonprofit trade association that represents three bicycle manufacturers,[1/] accounting for approximately 80 percent of the bicycles produced in the United States, and 16 companies that supply parts and components to these manufacturers.

We have reviewed the existing GSP statute, which is codified in Title V of the Trade Act of 1974 ("the Act"), 19 U.S.C. §§ 2461 et seq. (Supp. III 1979), and offer our comments regarding both necessary changes in GSP country and GSP product eligibility standards and the Administration's recommendations for GSP renewal. Specifically, BMA recommends that, if Congress does renew the GSP program, it (1) impose greater restrictions on GSP country eligibility to ensure that nations that are no longer developing countries are ineligible for GSP benefits; (2) enact stricter procedures to disqualify for GSP treatment products that are like or directly competitive with goods produced by

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[1/] The bicycle manufacturer members of BMA are: Huffy Corporation; Murray Ohio Manufacturing Company; and Roadmaster Corporation.

import-sensitive domestic industries; and (3) expressly provide that bicycles are ineligible to receive GSP duty-free treatment.

## II. IMPORT SENSITIVITY OF THE U.S. BICYCLE INDUSTRY

Prior to any discussion of suggested modifications to the Generalized System of Preferences, it is important to emphasize the import sensitivity of the U.S. bicycle industry, which is clearly illustrated by a review of import trends since 1948. When the United States cut tariffs pursuant to the GATT negotiations of 1947, imports increased dramatically. In 1948, the ratio of imports to apparent domestic consumption was 0.6 percent; by 1955, it had increased to 41.2 percent.

Because of this surge in imports, BMA filed an "escape clause" case in 1954 under section seven of the Trade Agreements Extension Act of 1951, Pub. L. No. 82-50. After the U.S. Tariff Commission made an affirmative recommendation, the President increased tariffs on light-weight bicycles from 7.5 percent to 11.25 percent and on other models from 15 to 22.5 percent. The ratio of imports to apparent consumption subsequently dropped to about 30 percent until 1964, when it declined to approximately 20 percent after the development of the "high-rise bicycle" by domestic manufacturers.

During the Kennedy Round of trade negotiations, the United States agreed to reduce the existing duties on bicycles by 50 percent over a five-year period beginning January 1, 1968. The direct result of those duty reductions was a significant increase in imported bicycles.

Thus, for the past 30 years, imports have attempted to dominate the U.S. bicycle market, surging dramatically with reductions in bicycle tariffs. Even today, imports continue to provide a formidable threat to the financial health of the domestic bicycle industry. In 1982, imports accounted for 25 percent of apparent U.S. consumption, a sharp jump from the 1979 import penetration level of 17 percent. See Attachment 1. During January-November 1983, imports continued to dominate over 28 percent of the U.S. market.

As a result of this escalation of imports, the U.S. bicycle industry has experienced serious injury. According to data collected by the International Trade Commission, net sales declined by 16 percent between 1980 and 1982; the number of production workers decreased by 24 percent during the same period, with employment in January-April 1983 13 percent lower than the same period in 1982. The ratio of operating income to net sales fell from 6.4 percent in 1980 to 0.2 percent during the period January-April 1983. See Attachment 2. In fact, in 1982, the industry experienced an aggregate operating loss of -1.6 percent of net sales. Moreover, the ratio of net pre-tax income to net sales plunged from 4.4 percent in 1980 to a loss of -1.3 percent in 1981, -4.7 percent in 1982 and -5.6 percent during the first four months of 1983. See Attachment 2. Clearly, this industry has suffered from the assault of imported bicycles.

Price — not quality or style — has been the principal reason why foreign manufacturers have been able to capture these increasing shares of the U.S. market. One reason for this cost advantage is low wage rates. Indeed, both the Executive Branch and the U.S. Congress have in the past acknowledged the increasingly difficult competitive environment of the U.S. bicycle manufacturing industry. During the Tokyo round on tariff negotiations, bicycles were one of the few articles that were not subject to import relief, yet were shielded from the duty cuts resulting from the Multilateral Trade Negotiations. The decision to place bicycles on the "exceptions" list resulted from a careful and comprehensive review of the financial viability of this industry and its vulnerability to increased imports as a direct result of low tariffs.

Moreover, the U.S. Congress has repeatedly attempted to improve the competitive posture of this industry by correcting the anomaly in the Tariff Schedules of the United States whereby the duties on various bicycle parts are higher than those levied on finished bicycles. Since 1970, temporary duty suspension legislation has been enacted on five separate occasions to suspend the duties on a variety of bicycle parts. Because of the recognized import sensitivity of this industry, BMA has a vital interest in the structure of the Generalized System of Preferences.

## III. DESIGNATION OF "BENEFICIARY DEVELOPING COUNTRIES"

BMA recommends that any statutory language continuing the GSP program be modified to deny "beneficiary developing country" status to those countries that can no longer be considered "developing" nations. This will ensure that countries which are truly less developed benefit from the GSP program.

It is well documented that a few beneficiary nations receive the vast majority of GSP benefits. Upon introducing proposed legislation in 1982 to amend the GSP program, Senator John Heinz (R-PA) noted that "our G.S.P. program is providing the lion's share of its benefits to countries that are no longer truly developing," specifically Taiwan, Korea, Hong Kong, Mexico and Brazil. 128 Cong. Rec. S4582 (1982). Senator Heinz concluded that "the G.S.P. program is failing to graduate the most advanced developing countries when the volume of their exports makes clear they are now fully competitive in particular economic sectors." Id. Information supplied by the Office of the United States Trade Representative supports Senator Heinz's conclusions. In 1981, the five major GSP beneficiary nations, Taiwan, Korea, Hong Kong, Mexico and Brazil, had a combined share of 60 percent of all GSP duty-free imports. In 1982, moreover, these five advanced beneficiary nations increased this overall share to 64 percent of total GSP duty-free imports and in 1983 to 65 percent. See Attachment 3.

At present, section 502(b) of the Act enumerates specific countries that are ineligible for designation as beneficiary developing countries, as well as specific conditions that, when satisfied, render other nations ineligible for such a designation. 19

U.S.C. § 2462(b) (Supp. III 1979). If a country is not automatically excluded by operation of section 502(b), the President then makes a determination, taking into consideration four factors listed in section 502(c), whether to then designate that country as a beneficiary developing country. Id. § 2462(c). Section 504(b) of the Act addresses the withdrawal of such status from a particular country; it requires the President to "withdraw or suspend the designation of any country as a beneficiary developing country, if after such designation, he determines that as a result of changed circumstances such country would be barred from designation as a beneficiary developing country under section 502(b)." Id. § 2464(b).

BMA believes that the current statute is inadequate because it permits the continued designation of newly industrialized countries as beneficiary developing nations. Thus, in order to ensure that nations that are no longer "developing" countries do not continue to receive GSP benefits, BMA recommends the following modifications to the Act. First, section 502(b) should be amended to provide that "[n]o designation shall be made under this section with respect to any of the following: Brazil . . . Hong Kong . . . Mexico . . . Taiwan . . . ." Should this amendment be adopted as law, the President would then be required to withdraw the designation of these five countries as beneficiary developing nations. Such action is fully consistent with the evidence cited above that these five countries do not need GSP benefits to be competitive in the U.S. market. It would therefore ensure that only truly developing nations receive GSP benefits.

Second, BMA recommends that section 504(b) of the Act be amended to require the President, upon receipt of a petition from a domestic industry, to review and determine within 90 days whether, in light of the more discretionary factors enumerated in section 502(c), it is appropriate to continue treating a country as a beneficiary developing nation. In addition, the President should also be required to annually review this designation with respect to all beneficiary developing nations and report his findings to the Congress. In this way, the appropriateness of continued extension of GSP benefits to a nation that originally qualified as a beneficiary developing nation will receive regular scrutiny.

## IV. GRADUATION OF INDIVIDUAL COUNTRIES ON SPECIFIC PRODUCTS

At present, the President has considerable discretion to determine whether to withdraw GSP treatment from a particular beneficiary developing country with respect to a specific product. BMA recommends that the Act be amended to set forth more precise standards to guide the President in this determination.

First, we note that section 504(c) of the Act establishes so-called "competitive need limits" requiring the President, when certain stated import levels of a particular product from a specific country have been reached, to discontinue treatment of that country as a beneficiary developing country with respect to that particular article. 19 U.S.C. § 2464(c)(1) (Supp. III 1979). However, section 504(c) then states an exception to this mandatory exclusion if there is an historical preferential trade relationship, an economic treaty in force with the United States, and "such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce . . . ." Id.

BMA proposes to remove this exception to the otherwise mandatory operation of section 504(c). In our view, if a country exports a product to the United States in excess of the "competitive need" formula, the country is by definition "competitive" in that product line. In this regard, it should be emphasized that the "competitive need limits," currently well over $50 million, offers advanced beneficiaries an exceptionally generous ceiling on competitive imports. Accordingly, such advanced countries should not be given the extraordinary privilege of GSP status once such limits are exceeded since the underlying purpose of that statute — to ensure the competitiveness of a less developed country — has already been accomplished. Extraneous factors, such as the country's historical trade relationship with the United States, should not be taken into account.

In addition, the more advanced developing nations should be discouraged from making requests for preferential duty treatment. One way to accomplish this goal is to shift the burden of proof. In other words, advanced developing nations should be required to demonstrate that a special justification exists for adding one of their products to the GSP list and that such addition will not injure the U.S. industry.

## V. GSP PRODUCT ELIGIBILITY STANDARDS

Section 503(c) of the Act states that the President may not designate import-sensitive products as eligible for GSP treatment. Id. § 2463(c). However, the "import sensitivity" standard is not — by itself— sufficient to ensure that products from GSP beneficiary nations do not compete on a duty-free basis in the U.S. market with like or directly competitive products that are produced by truly import-sensitive domestic industries. Therefore, BMA recommends that section 503(c) of the Act be modified as follows to ensure that all import-sensitive products are ineligible for the GSP list.

First, section 503(c) must be amended to state specifically that the President may not designate bicycles as an article eligible to receive GSP benefits. The above discussion documents the import-sensitivity of the bicycle industry; this proposed amendment is therefore vital to ensure the continued viability of the U.S. bicycle industry.

Second, BMA urges Congress to declare ineligible for GSP treatment products that have been exempted (or partially exempted) from tariff reductions in the Multilateral Trade Negotiations. It is inconsistent for the Executive Branch to prevent duty reductions during trade negotiations because of a product's import sensitivity and then unilaterally reduce those same tariffs to zero for certain trading partners.

Third, BMA recommends that products, with respect to which a final countervailing or antidumping determination has been issued, be declared automatically ineligible for placement on the GSP list. If a product subject to such an order is already accorded GSP treatment, it should be immediately removed from the list. Such a modification of the GSP statute will strengthen our commitment to combat unfair trade practices and will acknowledge the findings of import sensitivity inherent in the issuance or maintenance of such orders.

Fourth, it should be made clear in the statutory language that the proponent of a product's eligibility for duty-free treatment has the burden of proving that this privileged status will not adversely affect a U.S. industry.

Finally, given the extraordinary competitive advantage conferred by GSP eligibility, it is unfair to require that the President determine that a U.S. industry would be "materially injured" if an article is placed on the duty-free list. Congress recognized that concern when it disallowed GSP-treatment for "import-sensitive" articles. However, because of the difficulty faced by domestic industries with import problems in resisting GSP treatment for their products, it is appropriate for the U.S. Congress to make clear at this time that "import sensitivity" requires a much lower showing of adverse effect than the "material injury" standard evident in other U.S. trade laws.

Moreover, the President, in making an "import sensitivity" determination, should be required, among other things, to consider the impact of imports on a particular geographic region as well as on the U.S. industry on a nationwide basis. In addition, the President should also determine whether the technological development of any foreign industries that would benefit from the placement of an article on the GSP list is equal to, or exceeds, the technological development of the counterpart U.S. industry. In such event, GSP eligibility should be denied because such industries do not need the competitive assistance granted by the GSP program.

## VI. ADMINISTRATIVE PROCEDURES

Additionally, we wish to recommend certain changes in the administration of this statute to reduce the hardship on domestic industries suffering injury or threatened with injury by the placement of articles on the GSP list.

First, because imports can increase rapidly and thus swiftly injure a U.S. industry, the Office of the U.S. Trade Representative should accept petitions to withdraw products from the GSP list at any time during the calendar year. Currently, the Executive Branch prefers to review all such petitions once a year. Second, when an industry does petition to remove a product from the GSP list, there should be an administrative determination within 90 days. Industries facing injury from imports given preferential treatment should not be forced to wait an undue length of time for a decision.

Third, the Office of the U.S. Trade Representative has often conducted hearings simultaneously with those held by the International Trade Commission. Since the information presented to both agencies is often similar (and frequently identical), it is an expensive and cumbersome procedure to require duplicate hearings on the same issue. Therefore, consolidation of such hearings would save public and private resources.

Fourth, the Executive Branch should be required to detail the reasons for any actions taken with regard to the placement of an article on, or removal from, the GSP list as well as any decisions with regard to designations as beneficiary developing countries.

## VII. ADMINISTRATION'S GSP RENEWAL RECOMMENDATIONS

Finally, BMA would like to address S. 1718, the Administration's proposed GSP Renewal Act of 1983. S. 1718, 98th Cong., 1st Sess. (1983). Initially, it is important to note that the Administration's bill offers several specific statutory modifications and thus acknowledges the need for changes in the current GSP provisions. However, the renewal bill's proposed revisions fall far short of correcting the statute's deficiencies and in fact will exacerbate the problems inherent in the current program. The needs of import-sensitive industries are not adequately addressed and Presidential discretion is greatly increased, rather than further circumscribed.

First, the Administration's bill would add a new "competitiveness" factor to the existing criteria under section 501 which the President must consider before extending duty-free treatment to imported articles. Under the GSP renewal proposal, the President would also be required to take into consideration "the extent of the beneficiary developing country's competitiveness with respect to eligible articles." S. 1718, 98th Cong., 1st Sess. § 3 (1983). In addition, section 4 of the Administration's bill would direct the President to undertake a general product review to assess whether a beneficiary country has, vis-a-vis other beneficiary countries, attained a sufficient degree of competitiveness to warrant application of stricter "competitive need" limits.

While both of these proposed modifications are welcome indications that greater focus should be placed on a beneficiary country's competitiveness when granting GSP treatment, BMA must emphasize that they do not provide the President with specific standards to determine when a country is in fact competitive in an eligible product. Without such standards for graduation of competitive products, neither foreign exporters nor domestic industries will be able to gauge whether a particular beneficiary country will be determined to be competitive in a particular product.

More importantly, however, BMA submits that the Administration's proposal to establish a two-tier "competitive need" system is not an effective substitute for a statutory amendment that expressly removes the most advanced beneficiary countries from GSP coverage. The renewal proposal, therefore, fails to adequately address the fact that the newly industrialized countries are, by definition, sufficiently developed to no longer warrant the trade advantages GSP affords. Thus, the Administration's second-tier $25 million or 25 percent "competitive need" cap on imports from such competitive beneficiary countries will illogically permit such countries to receive preferences on products in which they are fully competitive with U.S. producers.

Secondly, under the renewal bill, the President would be granted complete discretion to waive application of both tiers of the proposed "competitive need" limits when he deems it in the "national economic interest." Such waiver, moreover, would remain in effect until the President orders otherwise. A country that is determined to be economically competitive in an eligible product, therefore, may nonetheless be extended duty-free preferences for an unlimited time at the President's sole discretion.

In view of the fact that such competitive beneficiary countries should not in any case receive additional trade advantages under the GSP program, BMA cannot countenance broader waiver authority for the President. We strongly urge elimination of this waiver provision since beneficiary countries which exceed the applicable competitive need limit do not require GSP treatment for their products. If waiver authority is continued in renewal legislation, however, BMA recommends that Congress provide strict statutory limits on the President's latitude to grant and maintain "competitive need" exceptions.

Third, BMA likewise opposes the Administration's proposal to allow the President to waive, at his discretion, all the competitive need limits for least developed beneficiary countries. The President, under this provision, would have unlimited authority to classify beneficiary countries as "least developed" without any statutory guidelines as to what the term "least developed" signifies. Moreover, such countries could then export unlimited amounts of merchandise to the United States, retaining duty-free treatment despite demonstrated competitiveness in a particular product.

Finally, BMA must note that the proposed renewal bill fails to address several significant concerns engendered by the current statute. In particular, the Administration's proposal fails to provide statutory criteria for determining what products are import sensitive and thus ineligible for duty-free preferences. As previously discussed, BMA urges that an "import sensitive" standard be specifically adopted as part of any GSP renewal statute.

In addition, the absence of any provisions requiring further congressional oversight of the GSP program and judicial review of administrative actions on GSP petitions leaves an obvious gap in the bill. Although the current statute requires the President to submit a report to Congress on the status of the program after five years, the Administration's bill eliminates this requirement in the future. Moreover, in a recent opinion, the U.S. Court of International Trade refused to review a Presidential decision which denied duty-free treatment to certain articles under the Generalized System of Preferences. *Florsheim Shoe Co. v. United States*, C.I.T. slip op. 83-66 (July 7, 1983). In the court's view, the complaint failed to state a claim upon which relief could be granted because the judiciary could not review the President's findings of fact or his motivations in such instances. Given that domestic industries can be seriously injured if the President places articles on the GSP list and thereby accords them duty-free treatment or if the President refuses to remove import-sensitive products from the list, BMA believes that the substance of such decisions should be reviewable by the U.S. Court of International Trade. Since GSP benefits are not entitlements, it is not necessary to grant the right of judicial appeal to importers who are disappointed in their efforts to gain the exceptional privilege of duty-free treatment. As demonstrated, an effective renewal bill necessarily must contain both congressional and judicial safeguards against arbitrary or unreasonable implementation of the GSP program.

Most importantly, the Administration's renewal bill does not expressly provide that the most advanced beneficiary countries, namely, Hong Kong, Taiwan, Mexico, Brazil and Korea, be graduated from the GSP program. Failure to designate these newly industrialized countries as ineligible for beneficiary country status will only perpetuate and exacerbate the already skewed distribution of GSP benefits in favor of the few advanced beneficiaries. Such highly developed countries must be permanently graduated to afford the truly needy developing countries an equitable share of GSP preferences.

## VIII. CONCLUSION

The bicycle manufacturer members of the Bicycle Manufacturers Association of America, Inc. appreciate this opportunity to present their views on the renewal of the Generalized System of Preferences. BMA believes that, if the program is renewed, certain amendments with respect to country and product eligibility are essential. BMA also finds that, although the Administration's proposal recognizes this need for change, it fails to adequately address the primary concerns raised by the current GSP program. Specifically, BMA's major recommendations are as follows: (1) bicycles must be declared ineligible to receive duty-free treatment under the GSP program; (2) Congress must impose greater restrictions on GSP country eligibility to ensure that nations that are no longer developing countries are ineligible for GSP benefits; and (3) Congress must enact stricter procedures to disqualify for GSP treatment products that are like or directly competitive with goods produced by import-sensitive domestic industries.

## ATTACHMENT 1

### Bicycles: U.S. Producers' Shipments, Imports, Exports, and Apparent U.S. Consumption, 1979-82, January-November 1982, and January-November 1983

| Period | Shipments 1/ | Imports | Exports | Apparent Consumption | Ratio of Imports to Consumption |
|---|---|---|---|---|---|
| | 1,000 Units | | | | Percent |
| 1979 | 9,038 | 1,867 | 52 | 10,853 | 17.2 |
| 1980 | 6,942 | 2,155 | 92 | 9,005 | 23.9 |
| 1981 | 6,832 | 2,224 | 91 | 8,965 | 24.8 |
| 1982 | 5,170 | 1,726 | 50 | 6,846 | 25.2 |
| January-November — | | | | | |
| 1982 | 4,902 | 1,448 | 47 | 6,303 | 23.0 |
| 1983 | 5,893 | 2,354 | 32 | 8,215 | 28.7 |

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1/ Estimated by the Bicycle Manufacturers Association of America, Inc.; does not include sidewalk bicycles.

Source: Compiled by the U.S. International Trade Commission from official statistics of the Department of Commerce, except as noted.

## ATTACHMENT 2

### Income and Loss Experience of Four U.S. Bicycle Producers 1/

| Item | 1980 | 1981 | 1982 | January-April 1982 | January-April 1983 |
|---|---|---|---|---|---|
| Ratio to Net Sales of — | | | | | |
| Operating Income (or Loss) | 6.4% | 0.8% | (1.6)% | 3.1% | 0.2% |
| Net Income (or Loss) Before Income Taxes | 4.4% | (1.3)% | (4.7)% | 0.3% | (5.6)% |

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1/ Huffy Corporation, Murray Ohio Manufacturing Company, Schwinn Company, and Roadmaster Corporation.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

## ATTACHMENT 3

### Share of the Five Major GSP Beneficiaries in Total GSP Duty-Free Imports, 1976-1983

| | 1976 | 1977 | 1978 | 1979 | 1980 | 1981 | 1982 | 1983 |
|---|---|---|---|---|---|---|---|---|
| All Beneficiary Developing Countries | 3,160.3<br>(100%) | 3,838.0<br>(100%) | 5,204.2<br>(100%) | 6,280.0<br>(100%) | 7,327.7<br>(100%) | 8,395.5<br>(100%) | 8,426.0<br>(100%) | 10,764.8<br>(100%) |
| Five Major Beneficiaries 1/ | 1,870.2<br>(59%) | 2,641.2<br>(69%) | 3,544.9<br>(68%) | 4,191.6<br>(67%) | 4,366.2<br>(60%) | 5,058.0<br>(60%) | 5,380.0<br>(64%) | 6,964.8<br>(65%) |
| All Others | 1,290.1<br>(41%) | 1,236.8<br>(31%) | 1,659.3<br>(32%) | 2,088.4<br>(33%) | 2,961.5<br>(40%) | 3,337.5<br>(40%) | 3,046.0<br>(36%) | 3,800.0<br>(35%) |

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1/ Taiwan, Hong Kong, Korea, Mexico, Brazil.

Source: Office of the United States Trade Representative.

EMBASSY OF ISRAEL
WASHINGTON, D.C.

שגרירות ישראל
ושינגטון

WRITTEN STATEMENT OF
DAN HALPERIN
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BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE
UNITED STATES SENATE
ON RENEWAL OF THE UNITED STATES
[redacted]
JANUARY 27, 1984

As Economic Minister of the Embassy of Israel, I am writing to indicate Israel's continued support for the GSP program and to urge the Congress of the United States to renew the program for at least another ten years. Israel believes the program is well-conceived, is working well, and is of real value to developing countries such as Israel.

Israel and its exporters, as I am sure you are aware, have fared relatively well under the current GSP. Our exports to the U.S. receiving duty-free benefits under the GSP have generally increased from year to year: from $248 million in 1980, to $324 million in 1981, to $407 million in 1982. As a result, Israel is currently seventh in terms of GSP utilization, with a 4.8% share of the $8.4 billion in GSP imports that entered the United States in 1982.

I believe it is fair to say that throughout the years Israel has played one of the most active roles in supporting the U.S. GSP. Our exporters have participated in every annual review, seeking either designation of new products, continued benefits for those products already designated as eligible, and redesignation of products previously removed. Needless to say, our exporters did not succeed with each and every product. But the hearings were fair and open and our exporters, I believe, are generally satisfied with the results of their efforts.

The Congress now has under consideration an Administration proposal that would reduce the competitive-need criterion for certain countries, depending upon the country's level of development. Israel does not necessarily oppose such an approach to "graduation"; however, we urge the Congress and the Administration to avoid determinations regarding reduced competitive-need limits based on static, one dimensional analyses. The use of criteria such as utilization rates or of per capita GNP, while of certain validity, must also be coupled with analysis of a country's overall economic and political situation, as well as with its historical trading relationship with the United States.

As regards per capita GNP, this can be a very misleading indicator of development. Certainly per capita GNP in and of itself does not indicate the real standard of living of the people. This is especially true in the case of Israel, where the GNP is made up to a great extent of defense spending; upwards of 40% of Israel's GNP is committed to defense. So too, in Israel's case, one must look at the other side of the coin, debt per capita. Israel has the highest debt per capita of any nation. If one looks at per capita GNP only, Israel appears very well off; if one, however, also considers debt per capita and how much of the GNP is for defense, the picture of Israel changes considerably.

As regards utilization of the GSP, certainly no country should have its competitive-need level reduced merely for making use of the program. Whether a country is among the top 5, or top 10, or top 15 in terms of utilization seems to be one of the least cogent reasons for penalizing that country. This is especially true when one considers what "utilization" means in terms of total imports into the U.S. As I noted, Israel's current share of the GSP is 4.8%. The USTR has recently noted that GSP imports constitute only 3% of all imports. This means that Israel's GSP imports are 4.8% of 3%, or about 0.1% of total imports. In this context, we suggest, utilization as a criterion for assessing competitiveness of a country becomes virtually meaningless.

Using utilization as a criterion also appears to provide a direct disincentive for developing countries to increase exports under the program. If a country knows that solely by increasing its exports under the program it runs the risk of having its competitive-need limit reduced, that country is likely to monitor and limit exports. This, of course, flies in the face of the very purpose of the program, which is to encourage countries to industrialize, diversify, and increase exports.

With respect to Israel, I should also note that many of Israel's products tend to be somewhat more sophisticated than those of many of the other developing countries receiving GSP benefits. Accordingly, reducing Israel's limits is very unlikely to benefit the least developed beneficiaries. Rather, the only countries that would likely benefit from reductions affecting Israel are non-GSP, developed countries.

In view of these considerations, Israel is hopeful that the mere fact that it has made use of the program will not bring about reduced competitive-need limits. Notwithstanding its share of GSP imports, Israel is still a developing country in need of all the benefits afforded under the GSP. Israel cannot yet be considered as competitive as more advanced exporting nations. That this is the case may be seen from the actual case history of one of Israel's exports that was graduated, gold rope chain jewelry.

Gold rope chain jewelry from Israel lost GSP benefits in 1981 as a result of exceeding the 50% competitive-need limit. Israel had been able to achieve relatively high shipments of this jewelry because, with the GSP, Israel could compete successfully with Italy, the world's major jewelry producing nation. Notwithstanding the centuries-old tradition of gold jewelry craftsmanship in Italy as compared to only a few decades in Israel, the price differential resulting from the duty-free treatment allowed Israel to increase sales at the expense of Italy. In the years following loss of GSP benefits, however, Israel's share of the gold rope chain import market dropped from 50% to about 1%; that is, from over $5 million to just slightly over $200,000. In short, Israel was not yet competitive and, as a result of loss of GSP benefits, Israel was literally driven out of the U.S. market for this product.

Israel is clearly still developing and in need of GSP benefits. Irrespective of Israel's successes under the program, Israel has a very real need to increase exports in order to solve its economic problems. As many international economists have noted, Israel's economy is unique; no other economy comes close to resembling it.

Since its establishment, the State of Israel has experienced an excessively large deficit in its balance of payments. Exports increased at an average annual rate of 18 percent during the years 1955 to 1981. At the same time non-military imports increased at a lower average annual rate of 14 percent. Despite the faster average growth rate of exports as compared to that of imports, the non-military deficit in the balance of payments continued to grow. This is explained by the initial low level of exports as compared to the higher level of imports, which resulted in a greater absolute increase in imports, as compared to the increase in exports.

The growth in imports and the deficit is the result of two major factors: exceedingly large direct and indirect foreign exchange expenditures for defense and the need for rapid economic development. Fast growth was dictated by the need to absorb mass immigration, with most of the immigrants arriving without any financial means of support. Israel's dependence on imports also results from its limited natural resources and its dependence on imports of raw materials, especially fuel, the price of which has increased considerably over the last ten years.

Another factor contributing to the deficit was fast rising interest payments on growing foreign debt. Close to 50 percent of the current deficit had to be financed by foreign borrowing. Debt redemption has become a heavy burden, both on the balance of payments and on the government budget, competing with development projects for limited foreign exchange resources. Had it not been for the high cost of debt-servicing, by now Israel likely would have been able to finance both its development and military procurement from its own resources, without resort to foreign aid.

Despite the large deficit in the balance of payments, the large overall current account deficit of more than $4 billion, and other problems Israel has had to face, a sound economy is being constructed. Israel's economic achievements are manifested in the productive absorption of mass immigration; the establishment of a sound social and economic infrastructure; the extensive increase in productive capacity in manufacturing industries, agriculture and services; and particularly in the growth of exports. A structural change in investment, production and employment is taking place, reflected in the increasing weight of exports in Israel's total production and in the development of a whole range of sophisticated export products sold in all major markets. Needless to say, the GSP has aided significantly in this process.

Despite the continued economic progress made, however, Israel's need for both military and economic aid has grown considerably. These needs stem to a great extent from factors beyond Israel's control: the increase in military expenditures in foreign exchange; the rise in the price of oil and other vital imports; the growing burden of external debt-servicing.

The cost of oil imports in 1982 is estimated at $2.0 billion, an increase of $1.9 billion since 1972. Had it not been for the return of the Sinai oil fields to Egypt within the framework of the Camp David Accords, Israel would have been totally independent of oil imports by now.

Debt-servicing is estimated to have been $3.5 billion in 1983, an amount far exceeding total aid received in recent years. Debt-servicing to the U.S. Government alone is estimated to have been at over $1 billion in 1983, an amount exceeding economic aid approved in recent years.

In 1982 a deterioration occurred in the balance of payments accompanied by an increase in the pace of inflation. The deterioration in the balance of payments is mainly attributable to a considerable slowdown in the growth of exports, resulting from the continued slack demand in world markets and a decline in net returns on exports to non-dollar markets, due to the strengthening of the dollar.

In short, while we have improved our economy, with our excessive deficit in our balance of payments, we must export. Indeed, Israel must continue to increase exports at least at the pace of prior years. In 1982, this pace slowed; without continued GSP benefits, it is doubtful the pace can be picked up and maintained.

Exports are, of course, only one side of the international trade coin. The other side is imports. Increasing exports from Israel have allowed -- and will continue to allow -- Israel to, in turn, import increasing amounts from the United States. Currently, Israel is the third largest importer in the Middle East of U.S. products. Israel has consistently imported more from the U.S. than it has exported to the U.S. Approximately 20% of Israel's non-military, merchandise imports in 1981 came from the United States; that is, about $1.63 billion dollars worth of U.S. products were sold in Israel in 1981 as compared to $1.2 billion Israeli products sold in the U.S. in the same year. Most important, it is agriculture, high technology and industrialized items that are the U.S.'s major exports to Israel. As a recent U.S. Department of Commerce, "Foreign Economic Trends" stated:

> Machinery and electronic equipment products are the major U.S. exports to Israel. They offer good prospects for the future, as Israel seeks to expand its own exports. This will continue to require high-quality, large-volume production machinery. U.S. agricultural products will also continue to find a good market in Israel, which must import sizeable quantities of grains and soybeans.

Finally, in the context of U.S. exports to Israel, I would like to remind the subcommittee that U.S. exporters have benefitted from the fact that virtually all of Israel's trade with the U.S. is based on reciprocity. Generally, whenever Israel receives a concession from the U.S., it provides one in return. At the inception of the GSP program in 1976, Israel was asked to give, and we did give, concessions to U.S. exports as a quid pro quo for participation in the program. Indeed, I believe Israel was the only country to give such concessions. U.S. exporters have benefitted from these concessions, and we believe it would be inequitable now to eliminate Israel's preferences.

Having explained why we in Israel believe graduation of Israel is inappropriate, let me now turn to a few improvements we would like to see in the new, revised GSP.

First, we would hope that more discretion might be given to the President to waive, perhaps in conjunction with the Secretaries of State and Commerce, the competitive-need limits under certain circumstances. Often a situation will arise where a country will lose GSP benefits for a product, not because a country has become competitive, but because of unusual world occurrences. Let me give an example: Israel is an exporter of licorice extract. Over most of the last several years, the major exporter of licorice extract has been, not Israel, but Iran. As a result of the economic distortions that occurred in that country in recent years, however, Iran's export of licorice extract--and, of course, most other products--came to a standstill. Israel as a consequence soon had more than 50% of the U.S. import market for licorice extract--not as result of Israel's increasing exports but because of the decline of Iran's exports. Israel lost GSP benefits. The next year Israel's licorice extract exports dropped substantially.

If the President had had greater discretion to waive the competitive-need limits, he could have taken into account the distortions resulting from the occurrences in Iran. And Israel would not have been removed from the GSP for licorice extract.

There are, of course, other examples where a waiver might be reasonable, for example, where raw material prices increase significantly or where one product in a basket category is extremely high priced. More discretion to waive the limits would certainly seem warranted in such circumstances, and we would hope the President would be given such waiver authority in any revised GSP.

We would also hope to see more automatic redesignation for products that have lost benefits as a result of the competitive need limit. As I noted, Israel's rope chain jewelry has fallen to 1% of the U.S. market. Yet, this product has not been--and apparently will not be--redesignated. Another example is a product called ethoxyquin. Israel lost benefits for the product because it had over 50% of all imports. This was before the de minimis provision was added to the law. Currently, Israel's exports to the U.S. of ethoxyquin are in the neighborhood of $200,000 annually--clearly de minimis; however, the product has not been redesignated. To us this seems unreasonable.

Finally, we would like to see a provision permitting U.S. raw materials and components to be taken into account both for the 35% added-value, country of origin rule and the competitive-need limit. Israel is a major importer of U.S. components, which it fabricates and re-exports to the United States. It seems senseless to not include such components in the country of origin rule, especially when such purchases by Israel directly benefit the U.S. economy.

Likewise, U.S. components should be taken into account in determining whether or not a product has exceeded the competitive-need limit. For example, if a country has $60 million worth of imports of a product but $15 million of that amount is U.S. components, that product should not be considered as exceeding the competitive-need limit. Otherwise, both the foreign exporters and the U.S. exporters are senselessly penalized.

**EMBASSY OF ISRAEL**
**WASHINGTON, D.C.**

שגרירות ישראל
ושינגטון

WRITTEN STATEMENT
OF
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BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE
UNITED STATES SENATE
ON RENEWAL OF THE UNITED STATES
GENERALIZED SYSTEM OF PREFERENCES
JANUARY 27, 1984

I am Ehud Polonsky, Assistant Economic Minister of the Embassy of Israel. I am writing to voice my support for renewal of the GSP, in general, and continued benefits for Israel's exports, in particular.

The United States Trade Representative is proposing revising the GSP to incorporate tiered competitive-need limits in order to graduate out of the GSP status countries deemed no longer in need of duty-free benefits. Under this approach, no country would be graduated outright from GSP eligibility; however, advanced developing countries would have reduced competitive-need limits. Negotiation for higher limits may also be permitted; that is, a country could give concessions on U.S. exports in order to gain higher limits on all or selected products. This negotiating approach would introduce an element of reciprocity into the GSP scheme.

If a tiered competitive-need approach is implemented, Israel ought to maintain the current limits applicable to it or be accorded even higher limits for the following reasons:

(a) Because of the nature of Israel's economy and its populace, the types of products produced by Israel tend to be high-technology items. For example, Israel currently ships to the U.S. under the GSP CT scanners, items carrying a price tag of approximately $1 million per unit. These items are an important source of foreign exchange revenue for Israel and are also of significant benefit to the American health care consumer. If the competitive-need limit were reduced, Israel would inevitably exceed such lowered limits for these costly high-tech items. Indeed, this has already occurred even under the current limits: surgical laser equipment from Israel was recently eliminated from GSP eligibility as a result of exceeding the competitive-need limit. Removal under these circumstances benefits no one; U.S. consumers are forced to bear the higher, duty-paid price while no other GSP-eligible country is capable of increasing exports of such high-tech products at Israel's expense.

(b) Israel's current position as the seventh largest beneficiary under the GSP and its GNP per capita, do not reflect the true picture. Israel's successes under the GSP program are a result of the country's dire need for foreign exchange, not of the country's graduation from developing to developed status. And, the country's per capita GNP, viewed alone, presents a misleading indicator of Israel's current economic conditions. To understand Israel's situation, one must look to other economic data. The following data indicate that Israel's economy is unique, with no other country even approaching it:

- The external debt is greater than the GNP.
- The debt per capita is the highest in the world.
- With Israel required to maintain a constant state of military preparedness, about 40% or more of the GNP is committed to defense and most of the military procurement must be financed with foreign exchange acquired through exports.
- Israel's current account deficit is about 4 and one half billion dollars, unduly high for a country of only 3.8 million people. And, the economy has deteriorated even further in the last few years as a result of increased imports and decreased exports.
- Israel's neighbor-country markets are closed to it.
- As a result of Arab boycotts, Israel has limited access to raw materials, which adds to the cost of such materials. These last two points make Israel almost totally dependent on trade with the United States and other developed nations.

In view of Israel's unique economic situation, reduction in the competitive-need limits would clearly impose added, undue hardships, which would make it exceedingly difficult to earn the foreign exchange necessary to ameliorate the country's current difficulties.

(c) Israel has already made considerable concessions to gain GSP benefits. When Israel received preferential treatment under the GSP, it gave concessions to the United States, significantly reducing duties on 132 items of interest to United States exporters. In 1981, Israel's imports from the United States of these 132 articles amounted to $363.7 million, more than the total value of all of Israel's exports to the United States that received GSP benefits in that year.

Israel was the only country to give such concessions in order to gain GSP benefits. To reduce Israel's competitive-need limit or to require Israel to give further concessions in order to maintain current limits would contravene the understanding reached in 1975 between the United States and Israel when Israel was afforded GSP benefits. If reciprocity in the GSP is required, Israel has already reciprocated.

(d) Finally, reducing Israel's GSP benefit will send the wrong political signal to other nations. Including Israel in the graduated group will be viewed by other nations as penalizing Israel at a time when the interests of the United States are directly the opposite.

Moreover, Israel enjoys GSP status with Australia, Japan and Canada. Including Israel in any graduated group will impede Israel's effort to maintain its developing country status vis a vis these and other developed countries.

Conclusion

The nature of Israel's exports under the GSP; the difficult economic conditions of the country; the fact that, in return for GSP benefits, Israel has already given concessions of considerable benefit to the United States; and the need not to send the wrong political signals at this time, require that Israel maintain the competitive-need limits currently applicable to it or be granted even higher limits in the event tiered competitive-need limits are added to the GSP program.

# STATEMENT OF
# NORMAN LAVIN, PRESIDENT
# BRASS AND BRONZE INGOT INSTITUTE
# ON THE POSSIBLE RENEWAL OF THE GENERALIZED SYSTEM OF PREFERENCES
# BEFORE THE SENATE FINANCE COMMITTEE
FEBRUARY 1984

The members of the Brass and Bronze Ingot Institute urge the Senate Finance Committee to make a full and complete review of the impacts that the Generalized System of Preferences (GSP) program has had on domestic production and employment. We believe that such a review will show that the GSP program has not been in the national interest and that it should not be renewed. We recommend that the Senate Finance Committee not report legislation that continues the GSP program.

The domestic brass and bronze ingot industry recycles thousands of tons of copper and other nonferrous waste and scrap each year, saving both energy and valuable national resources. The industry produces a large number of copper-base alloys that are used by the nonferrous foundry industry as the raw material to produce castings that are in thousands of items in homes, business, plants and transportation.

The domestic brass and bronze ingot industry is being seriously impacted by imports and especially by the increasing imports from GSP beneficiary countries. The major impact is not from imports of ingot but is being caused by the rapid increase in imports of items made of castings. As a result of the surge in imports of items made of castings there has been a sharp drop in the demand for ingot by domestic foundries.

Production and shipments of brass and bronze ingot fell to less than 190,000 tons in both 1982 and 1983 from an average of 230,000 tons during the five-year period 1977-1981. The 1982 and 1983 production and shipments of ingot were lower than any year since the great depression during the 1930s.

The increase in imports has been a factor in the plant closings that has reduced the number of domestic ingot producers from 55 in 1959 to only 24 today. Even with the 56% decrease in the number of producers there remains overcapacity in the domestic industry.

The full impact of imports on the domestic ingot and foundry industries is difficult to quantify because many imported castings are not reported as castings because they are components of thousands of items from automobiles to electrical goods and hardware. However, examples of the increase in reported imports of castings are shown in the following table.

United States Imports
Quantity - Pounds

| | Copper Valves | Copper Alloy Pipe and Tube Fittings | Brass Plumbing Goods, NSPF |
|---|---|---|---|
| 1980 | 18,192,361 | 1,786,194 | 1,368,841 |
| 1981 | 21,332,927 | 1,849,671 | 1,897,306 |
| 1982 | 20,235,702 | 1,791,157 | 2,121,706 |
| 1983 | 24,868,556 | 2,817,515 | 4,134,170 |

As can be seen from these figures, during the most recent four-year period imports of copper valves have increased 37%, copper-alloy pipe and tube fittings are up 58% and brass plumbing goods jumped 202%.

These increases in imports have been due to the sharp increase in imports from GSP beneficiary countries. During 1983, 65% of the imports of valves were from GSP beneficiary countries, as were 68% of the imports of brass plumbing goods and 87% of the imports of pipe and tube fittings.

The GSP program was enacted to assist developing countries by making their products more competitive in the U.S. market. This objective has been more than achieved since 1976. The duty-free treatment, plus low labor costs, have given the developing countries an advantage that is closing many U.S. markets for castings and items made of castings to domestic producers.

Each imported casting means one less casting produced in a U.S. plant using U.S. labor. Continuation of the GSP program can only contribute to more plant closings, more unemployment and a worsening of the U.S. trade balance problem.

On behalf of members of the Brass and Bronze Ingot Institute, I recommend and urge the Senate Finance Committee not to report legislation that would continue the GSP program.

However, if the GSP program is renewed, it should be crafted on a very selective basis so as to reduce the impacts on all U.S. import-sensitive industries and assist only the less developed countries. The renewal should exclude all import-sensitive products and the more advanced developing countries such as Brazil, Hong Kong and Taiwan.

**McGraw-Hill, Inc.**

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Theodore S. Weber, Jr.
Executive Vice President-Administration

February 8, 1984

The Honorable John C. Danforth
United States Senate
Chairman
Subcommittee on International Trade
219 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

This letter relates to the hearings held on January 27, 1984 regarding the reauthorization of the [redacted] We were unable to testify at that time, but we will take this opportunity instead to submit our views for the record.

The purposes of the Generalized System of Preferences are widely recognized and, for the most part, accepted as valuable in encouraging trade and the growth of Less Developed Countries, as potential markets for U.S. products. We believe in the continuation of the GSP. However, in the reauthorization we urge that the law be modified to rectify an enormous problem faced by U.S. owners of intellectual property in many of the LDC's--the counterfeit reproduction and sale of United States products, generally.

Speaking specifically about McGraw-Hill, at least 300 McGraw-Hill titles of professional and college textbooks are being "pirated" in the Philippines and 100 titles in Pakistan. We estimate that the piracy problem in the Dominican Republic, Peru, Argentina and Columbia and other countries in Latin America results in a loss to McGraw-Hill of about $680,000.

In our case, the practice of piracy is simply one of taking school and college books, which are for the most part created by American publishers and written by American teachers or professors, making printing plates of the covers and pages, running off copies and selling them direct in a marketplace. The pirated books are most often exact replicas, even to the extent that they carry our trademark. In that process, of course, the pirates avoid the investment of thousands of dollars in the preparatory work done by editors, illustrators, production personnel, and finally the sales representatives, who develop and service the market. Obviously, the pirates make no royalty payments to authors.

While our losses are predominantly in book sales, we look with some concern to the likelihood that our computer software products will soon become the target of illegal reproduction and sale.

To assist in rectifying this world-wide problem which deprives American companies of millions of dollars, we urge that the reauthorization deny GSP benefits to those nations which do not provide adequate and effective means for foreign nationals to secure, exercise and enforce exclusive rights in intellectual property, including copyright.

Your bill, S. 144, recognized the need to protect intellectual property and Congress provided protection in the language of the CBI legislation. We urge the same kind of protection be included in the GSP reauthorization.

In 1982, the American book publishing industry exported goods valued at more than $640 million. The industry's potential contribution will continue to be reduced by the piracy taking place around the world, most often in the Less Developed Countries. We look to our government for support in the solution of the problem, and we believe that the protection which we ask to have included in the GSP reauthorization is entirely equitable. Piracy of intellectual property is nothing more than the theft of American property. It should not be too much to expect that those nations which benefit from the GSP do their utmost to protect the rights of American companies.

Sincerely yours,

T. S. Weber, Jr.

Theodore S. Weber, Jr.
Executive Vice President-Administration

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TLX 248302 CCUS UR YAMATAKECO TOKYO 038 JAN 20 84
TO SEN JOHN DANFORTH
COMMITTEE ON FINANCE
CHAIRMAN, SUBCOMMITTEE ON INTERNATIONAL TRADE
C/O BILL JACKSON 248302 CCUS UR WASHINGTON D C,U S A

WE UNDERSTAND YOUR SUBCOMMITTEE WILL HOLD A HEARING ON JAN 27 ON S.1718, RENEWAL OF GSP. THE FOLLOWING POSITION ON GSP WAS REAFFIRMED BY APCAC (ASIA-PACIFIC COUNCIL OF AMERICAN CHAMBERS OF COMMERCE) AT ITS 30TH SEMI-ANNUAL MEETING IN SYDNEY LAST OCTOBER. ESTABLISHED IN 1968, APCAC REPRESENTS THE INTERESTS OF 20,000 BUSINESS EXECUTIVES AND 6,000 AMERICAN BUSINESS ENTITIES IN THE ASIA-PACIFIC REGION.

WE URGE THE U.S. GOVERNMENT TO CONTINUE TO WORK CLOSELY WITH THE AMERICAN BUSINESS COMMUNITY ABROAD TO IDENTIFY TARIFF AND NON-TARIFF TRADE BARRIERS AND WORK ACTIVELY TOWARD THEIR ELIMINATION.

TOWARD THIS END, APCAC SUPPORTS THE ADMINISTRATION'S CURRENT PROPOSALS FOR RENEWAL OF THE U.S. GENERALIZED SYSTEM OF PREFERENCES (GSP) LEGISLATION. GSP IS A VALUABLE DEVELOPMENT PROGRAM WHICH CREATES OPPORTUNITIES FOR MUTUAL BENEFIT AND GROWTH THROUGH TRADE. DEVELOPING COUNTRIES NOW PURCHASE SOME 40 PER CENT OF U.S. EXPORTS. GSP HAS CONTRIBUTED TO GROWTH IN THESE MARKETS BY ENABLING DEVELOPING COUNTRIES TO EARN INCREASED FOREIGN EXCHANGE WITH WHICH THEY PURCHASE MORE U.S. GOODS AND SERVICES. APCAC ALSO AGREES THAT RENEWAL OF GSP LEGISLATION SHOULD BE STRUCTURED SO AS TO ENCOURAGE DEVELOPING COUNTRIES TO OPEN THEIR OWN MARKETS TO U.S. GOODS AND INVESTMENTS.

REGARDS.

JOE GRIMES CHAIRMAN APCAC C/O HONEYWELL J22902 YAMATAKECO
TOKYO JAPAN

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